

# Transportation Coordination Toolkit

November 2005

Insurance

## **Topic: Insurance**

**Target Audience:** Agencies working together to coordinate transportation services whose vehicle insurance coverage is not provided by a city or county insurance consortium

**Goal:** To provide coordinating agencies with the tools to achieve the best possible insurance coverage at the lowest possible cost.

### **Transportation Coordination: Solving Insurance and Liability Issues**

When two or more agencies decide to work together cooperatively to transport their mutual clients, inevitably one of the first questions asked is, “Will coordinating transportation services affect my insurance coverage?” If you have done your homework with your agency’s insurance coverage and policy, then the effects on your coverage as well as that on the other coordination participants can be minimized. However, it will take planning, patience, and perseverance to achieve this goal. Your insurance carrier(s) can be a resource as you put together your coordination effort and address the various insurance issues. Establishing a good working relationship with your agent can be an advantage. However, be prepared before you make the first contact. Know what your coordination program will be and how you plan to operate so that you can communicate

clearly and knowledgably about what it is you intend to do.

Below are some of the most common issues that arise regarding insurance and coordination, a few of the most frequently asked questions, and the steps you can take to meet the challenge of providing insurance for your coordinated services.

***Please note that this document deals with the possible impact to an agency’s insurance as a result of coordinating the transportation of passengers with other transportation providers. There can still be issues relative to the registration requirements with the Minnesota Department of Transportation’s Office of Freight & Commercial Vehicle Operations. All questions regarding this issue should be directed to the OFCVO at [motorcarrier@dot.state.mn.us](mailto:motorcarrier@dot.state.mn.us), or you can visit their website at <http://www.dot.state.mn.us/motorcarrier/passenger/index.html>***

### **Issue: Joint Use Arrangements**

Joint use of vehicles occurs where two or more agencies share the use of a vehicle. The vehicle may be operated by one or more of the agencies, with paid or volunteer drivers. In joint use arrangements, participants must:

**Step 1:** Determine the participants in the coordination effort and the vehicles to be used. Designate which agency will act

as the lead agency, e.g., it may be the agency with the largest fleet, or one with the administrative capability to manage the project.

**Step 2:** Invite the various insurance representatives that will be affected by the coordination effort to a meeting of the coordination partners. Explain the coordination project and describe the steps you intend to follow to formalize your coordination arrangement, and invite their input into your next steps. Note: although inviting insurance representatives early in the process can be helpful, only invite them after you have formulated your program and are able to answer some basic questions about your project. See the section “When Should I Contact My Insurance Carrier?” for further discussion.

**Step 3:** Develop policies and procedures for the coordination effort, including but not limited to administration; cost sharing; service area, accident, incident, and emergency procedures, and driver standards and training, and where the vehicles will be housed.

**Step 4:** Your insurance representative may have additional thoughts and topics to add, but at a minimum, the following insurance coverage should be specifically addressed:

- Liability
- Uninsured/under-insured
- Additional insureds
- Physical damage
- Comprehensive and collision (note: you must specify which agency is responsible for the deductible)
- Medical Payments Coverage
- Worker’s Compensation

- General Liability

A brief definition of some of these terms are provided below:

Liability: The portion of a policy that pays for bodily injury or damage that your vehicle does to others as the result of an accident. This is the most important part of any vehicle insurance policy. Example: Your vehicle hits a legally parked car with two people in it. There is substantial damage to the car and both people suffer neck injuries. This would be covered under your liability coverage.

Medical Payments: Limited payments (generally \$1,000 to \$5,000) for medical treatment made to persons injured either on or by your vehicle. These payments are made regardless of fault to deter people from filing a liability claim. Example: Mrs. Jones trips over her loose shoe lace and falls on your bus. She then has a doctor’s visit to bandage a bruised knee.

Uninsured Motorists: Provides coverage to you and your passengers should an uninsured motorist be at fault in an accident. Your insurance company pays on behalf of the uninsured driver. This also applies in hit and run situations. Example: Another driver rear ends your vehicle causing damage and injury to two passengers, then leaves the scene without stopping. He leaves so quickly that you cannot get his license number.

Collision: Coverage which pays for damage to your vehicle as the result of a crash with another vehicle or fixed object. Example: Your driver hits a tree causing \$2,500 in damage to your vehicle.

Comprehensive: Comprehensive coverage provides payments to repair or replace your vehicle as a result of virtually all other causes, (except collision), such as fire, theft, flood, or vandalism. Example: Several of your vehicles are spray painted by a graffiti artist requiring repainting at a cost of \$1,000.

**Step 5:** Develop standard (and objective) driver selection criteria that can be used by all participating agencies. One agency should be designated to oversee the process. Standard criteria should include driving records and the number of points considered acceptable, criminal background checks, any past employment history where either pre-employment or random drug testing was performed. You may wish to follow the driver standards for Special Transportation Service (see brief), as these are recognized as standard industry practice. Samples of driver applications are available on the Center for Urban Transportation and Research website at <http://www.cutr.usf.edu/bussafety/core/select.htm>.

**Step 6:** When vehicles are being shared, it is important to formally spell out the rights and responsibilities for each agency, and to incorporate these provisions into a formal contract.

**Step 7:** Hopefully your insurance representative(s) have been working with you throughout the process and will have already provided input and recommendations into the process. If not, contact your local insurance representative(s) to review the insurance coverage of your proposed contact as

well as that of the respective participating agencies.

**Step 8:** After incorporating any comments and recommendations as a result of *Step 7*, have each agency execute the contract.

### **Issue: Mixing Client Populations**

Insurance carriers have at times hesitated to insure agencies that serve a variety of client populations, i.e. serving populations other than their specific client group, because of the perceived increased risk.

It is important to understand that the risks are different for different client populations. Transporting the senior population is different from transporting school children. To adjust to this risk, and calm your insurance carrier's fears, you should:

**Step 1:** Become as knowledgeable as you can about your insurance coverage. Learn the proper insurance terms so that you can correctly describe the transportation service to be provided by the coordination effort. The amount of your insurance premium will be directly proportional to the amount of risk your carrier foresees in providing coverage. The higher the risk, the higher the premium. Livery, taxi service, for hire, community transportation, and school bus transportation all have specific meanings to insurance carriers. Find out what they are. Refer to the insurance terms in the previous section.

**Step 2:** Educate your current insurance carrier. Invite the various insurance representatives that will be affected by the coordination effort to a meeting of

the coordination partners. Explain the coordination project and your proposed operating plan. Describe the process you intend to follow to formalize your coordination arrangement, and invite their input into your next steps.

**Step 3:** Educate member agencies about not only the differences, but also the similarities of their particular client population.

**Step 4:** Develop standard (and objective) driver selection criteria and training requirements, and designate the agency responsible for overseeing the process. Selection criteria can include background checks and drug and alcohol testing. If one of your participating agencies happens to have a risk management plan, adapt it to reflect the special needs of different client groups that will be served and adopt it as part of the coordination effort. This, along with your other selection criteria and requirements, go a long way to show insurance carriers you are doing your part to hire quality drivers and are addressing the special needs of all individuals that may be transported. Suggestions for developing a safety plan are presented later in this brief.

**Step 5:** Hopefully your insurance representative(s) have been working with you throughout the process and will have already provided input and recommendations into the process. If not, contact your local insurance representative(s) to review your proposed contract as well as the respective participating agencies' insurance coverage.

**Step 6:** Develop and execute a formal contract among all members

incorporating the driver selection criteria, training requirements, and risk management procedures as indicated above, incorporating any comments from your insurance representative(s) from Step 5. (Refer to the steps under Joint Use Arrangements.)

### ***Best Practice***

*The Dakota Area Resources and Transportation Services (DARTS) in Dakota County, Minnesota operates 37 vehicles, providing co-mingled (i.e., client mixing) demand-responsive service to Metro Mobility customers: ADA trips in Dakota County; senior residents of Dakota County; and clients of other human service agencies that purchase service through DARTS. Because these trips are coordinated, productivity and hence cost-efficiency is improved, and the sponsors funding can purchase more trips (than if separate fleets were used).*

*In addition, DARTS shares the operation of a Section 5310 vehicle with two other entities, the City of Farmington Senior Center and St. Michael's Church.*

*DARTS applied for and received the 5310 vehicle, paid the local match, and is responsible for the insurance and maintenance. DARTS operates the vehicle in its regular service Monday through Thursday. The City of Farmington Senior Center operates the vehicle on Fridays as well as for special events after hours and on weekends. The Senior Center provides the driver and pays for the fuel as well as a fee for maintenance and insurance. St. Michael's church operates the vehicle on weekends using volunteer drivers, pays for the fuel, but pays no other fee for the use of the vehicle.*

*The vehicle is titled to, and is insured by, DARTS. All drivers, including those of the Senior Center and the church, must complete DARTS drivers' training program and be certified to drive by DARTS.*

*Note: DARTS has received the United We Ride Leadership Award for 2005, one of five communities "that are leading the way with common-sense approaches to serving those who need help with transportation."*

*For more information regarding the mixing of clients and vehicle sharing best practices, contact Mark Hoisser, Executive Director at (651) 234-2228 or [mark.hoisser@darts1.org](mailto:mark.hoisser@darts1.org).*

### ***Issue: Consolidation***

Consolidation is the most comprehensive type of coordination, defined as the joining or merging of transportation resources for the benefit of all participants. In a consolidated transportation system, the services of two or more providers are combined into a single system. Consolidation requires one of the participants or a new entity to assume the role of coordinator. In the cases of using an established transportation provider, insurance is already in place, however, you should still contact your insurance broker and provide them with a description and overview of the new system, driver standards, training, operating procedures, and risk management techniques. In the cases of a new provider, chances are great that the insurance broker for one of the existing providers that will be folded into the consolidated system will be able to provide the insurance coverage.

However, as stated previously, contact the broker with the description and overview of the proposed project.

### ***Issue: Transportation Brokerage***

A transportation brokerage system is not a consolidated system, but more than just vehicle sharing or joint use agreements. A transportation brokerage is a mechanism to match ride requests with available transportation resources, typically all existing transportation providers in the area. The coordinator or "broker" matches the ride requests to the transportation providers. Typically, this broker is an independent and objective party that performs the matches based on the best transportation (mode and timing) for the lowest cost, but there have been some cases where the broker also provides some of the trips itself. A variety of transportation modes can be used, for example, taxis, volunteers, fixed route bus service, demand-responsive dial-a-ride type services, etc. The broker usually standardizes driver standards, training, operating policies and procedures, and risk management practices to ensure a consistent quality of service.

In these cases each participating provider carries its own insurance coverage. In addition insurance coverage is also needed for the broker which will be directing or coordinating trips among the service providers. The broker may also be able to provide umbrella liability coverage for transportation providers.

***Issue: When Should I Contact My Insurance Carrier?***

A good relationship with your insurance carrier can be a major advantage to coordination. As you can see from the recommended steps listed under Joint Use and Mixing Clients, early contact with your insurance representative can be a valuable resource in your coordination efforts and obtaining an accurate assessment of your risk. However, be prepared. Take the time to educate your insurance representative about your project. Develop an information sheet or folder of information that describes the goals of the project and the proposed operating plan, including the training program, safety program and policies, and other preventative activities that directly affect a system’s risk. Describe the process that will be followed to formalize the coordination arrangement, and invite input into the next steps. In addition to the description and procedures for your project, compile risk and insurance information for each member of your coordination effort. The list of documents you should include is itemized under the discussion of “*Has Your Agency Been Classified Correctly for Your Insurance Coverage?*” later in this document.

***Best Practice***

*The Licking County Transit Board Coordination Project in Newark, Ohio, is a coordinated effort of Licking County social service agencies that work together to provide transportation services for member agency clients. Member agencies have developed a Service Brochure as well as a Transportation Policy and Procedure Manual which describes their*

*coordination effort and the policies followed by all members.*

*For a flyer and/or passenger guide, contact Cathy Sheets, Coordinator, Licking County Transit Board Coordinated Services, at (740) 670-5180 or [csheets@lcounty.com](mailto:csheets@lcounty.com).*

***Issue: Will My Insurance Costs Increase if I Coordinate?***

The amount you pay for insurance will be directly related to the amount of risk your insurance carrier/underwriter assigns to your system. Being classified correctly and taking steps to minimize your risk are two steps you can take in controlling your insurance costs.

*1. Be Classified Correctly*

Insurance carriers are experts in insurance and risk, not necessarily transportation. It’s your job to educate them about your agency and the coordinated transportation service. Often insurance carriers assume that if an agency is carrying clients other than their own, they automatically become “for hire” and as such the risk in providing this type of service may be greater (see the Best Practice on Motor Carrier Registration for further information and requirements on for hire transportation). However, if you provide only agency-sponsored trips and do not provide any charter services, the “for hire” classification is inappropriate and corresponding higher premiums unjustified.

The first step in being able to communicate clearly to your insurance carrier is to specifically define your proposed coordinated service. Who will

be the lead agency? Whose drivers will be used? What type of policies and procedures are in place for hiring? For training? Answering these questions and developing a sound operating plan will assist you in communicating your project and getting the right insurance classification and the right coverage.

#### *Tort Liability Limitations and Uninsured Motorists*

There are two other insurance issues which may require further review as they relate to coordination. The first is the issue of tort liability limitations. If, in one coordination example, agency “A” is protected by the award caps, but agency “B” with whom they coordinate is not, there is question as to whether agency “A” is now liable for agency “B’s” higher recovery awards . If it is determined that this is the case, these costs must be included in the fully allocated cost model for developing the contract rate to be charged. (See the Fully Allocated Cost discussion in this Toolkit). The contract rate would then reflect all costs of the service, including the higher costs due to the tort liability, and these costs would be borne equally by all contracting agencies. Another option, however, would be to develop separate contract rates for agencies “A” and “B” and to include the additional costs in the rate of the agency to which the higher costs are attributable.

The second issue is in regards to the insurance costs related to uninsured motorists and the impact this could have on the cost of insurance for coordinating agencies. If, because of the coordination efforts with other agencies, an agency now operates substantially more miles of service, this could be perceived by some

insurance carriers as increasing the agency’s risk and could result in increased insurance premiums. If this is the case, these additional costs would then be included in the fully allocated costs of the agency (again, refer to the Fully Allocated Cost discussion) and allocated appropriately to all contracting agencies. We should point out that it is entirely possible that operating more miles as a result of coordination may have no impact at all on an agency’s insurance rates if they are already correctly categorized by their insurance carrier.

The following is a list of information you should plan to compile for each participating agency:

- Organizational documents, such as articles of incorporation, bylaws, and financial statements;
- A description of your system: fleet size and type, annual miles, and annual passengers;
- A claims history for the past three to five years, and the rate of actual payments;
- A summary that relates losses to exposures (i.e., property damage or personal injury occurrences per miles of revenue service);
- A description of large losses (over \$10,000) and measures you have taken to prevent future occurrence of such losses;
- Information on your agency’s reserves for losses;
- Forecasted losses specifying claims-made on an occurrence basis;
- A summary of the replacement value of all real and personal property including descriptions, and maps, if appropriate; and

- A summary of business interruption values from the loss of facilities.

**Best Practice**

*To help facilitate the coordination of human service transportation in North Carolina, a statute was enacted. The North Carolina Act to Remove Barriers to Coordinating Human Service and Volunteer Transportation recognizes human service and volunteer transportation as separate but contributing components of the North Carolina transportation system and removes barriers to low-cost human service transportation. The law clarifies that transportation services cannot be regulated as commercial transportation and allows human service agencies to purchase insurance for people who provide volunteer transportation. It also exempts specialized transportation services from special taxes or licenses imposed by local governments. For more information, contact Miriam Perry, Assistant Director for Administrative Services, at [mperry@dot.nc.state.us](mailto:mperry@dot.nc.state.us).*

**Resource**

*The RTAP Risk Management for Rural Transit Systems Resource Handbook is a training kit that can be used for training or to develop an individual risk management program. Contact the Minnesota DOT Office of Transit or the National RTAP Office at (800) 527-8279 for information on how you can obtain a copy of this manual.*

**2. Minimizing Risk through Safety**

Insurance costs can often be a “deal breaker” when it comes to coordination. In today’s economy of rising costs and

dwindling resources, no one wants to pay any more for insurance than they have to. However, there are ways to help control your insurance costs. Documented and thorough hiring, training, and safety programs are tools you can employ that help reduce your risk and reduce or control insurance premiums.

The amount of insurance premiums is directly proportional to the amount of risk a carrier foresees in providing coverage. Insurance is about limiting liability and risk, which in turn is about safety.

A good first step, then, in controlling or limiting risk, and ultimately controlling and/or reducing your insurance costs, is to develop a safety plan. A safety plan can address all aspects of your service, including driver standards, selection and hiring, background checks, training, drug and alcohol testing, safety incentive programs, and accident/incident procedures and record keeping. A safety plan goes a long way in telling your Board, your staff, and your insurance carrier that safety and reducing risk to the maximum extent possible is a priority at your agency.

Everyone has a role in safety. Board members must approve safety policies and plans and promote safety throughout the agency. The role of the managers and supervisors is to develop safety guidelines and procedures, see that they are implemented, oversee accident investigation and record keeping, ensure that every employee knows safety rules, train (and retrain) employees and volunteers in safety, conduct safety inspections of facilities, vehicles, and equipment, and hold safety meetings for

all staff. Finally, employees and volunteers must obey safety rules, report unsafe conditions to their supervisor, and immediately report accidents.

Don't think you have time to develop a safety plan? You probably have most or all of the components already in place. If not, there are several models and templates ready for you to use. The Minnesota DOT has developed a safety plan template that is available for your use. The Risk Manager Software for Bus Transit Systems was developed by the Risk Management Center for the Federal Transit Administration and is also an excellent resource for developing risk management programs and safety plans.

#### **Resources**

- *Minnesota DOT's Transit System and Security Workbook, Minnesota DOT Office of Transit, 651.296.3379.*
- *RTAP Risk Management for Rural Transit Systems available through the Rural Transit Assistance Program (RTAP), 800-527-8279.*
- *The Risk Manager Software for Bus Transit Systems, prepared by the Risk Management Center, is a Transit Cooperative Research Program document and can be accessed at <http://gulliver.trb.org>.*

*The Florida Department of Transportation (FDOT), in collaboration with members from the American Association of State Highway and Transportation Officials' (AASHTO) Multi-State Technical Assistance Program (MTAP), has gathered industry "best practices" for developing model state safety programs and state legislation necessary for the development of improved transit bus safety standards and practices.*

*The guide will serve as a useful resource for*

*developing bus safety plans. The sample plans, contacts, reference links, and checklists available at this site are adaptable for systems of any size but are particularly suitable for small urban and rural (section 5311) recipients.*

*The Minnesota DOT's Transit System and Security Workbook as well as other best practices and model safety plans can also be accessed at the Center For Urban Transportation Research website, [www.cutr.usf.edu/bussafety/index.html](http://www.cutr.usf.edu/bussafety/index.html).*

#### **Issue: What Types of Insurance Coverage Are Available for Coordinated Services?**

There are three basic types of insurance coverage: commercial insurance, self-insurance, and insurance pools.

Commercial insurance is the type with which most of us as individuals and agencies are familiar. The financial responsibility for accidental losses is transferred to an outside organization, i.e. insurance company, in exchange for a premium. Insurance can be purchased to cover liability from the operation of buses and automobiles (automobile insurance); legal liability from harm to third persons (general liability), to compensation to employees for occupational injuries or disease (workers' compensation), loss or damage to leased or owned property (property insurance), as well as alleged wrongful acts, errors, omissions, misstatements, neglect, or breach of duties by public officials (public officials liability); and liability rising from the provision of professional advice and related services (professional liability). The premiums are based on

the amount of risk assigned to a particular business or operation by the insurance industry. Any steps taken by an agency to minimize their risk in the eyes of their insurance carrier can result in reduced or discounted premiums.

Self-insurance is the assumption of all or partial responsibility for payment by an agency whose operations create the risk of accidental losses.

Agencies who make the decision to take on this financial responsibility for all or a portion of their losses typically set aside a self-insurance reserve, but can also pay for the losses from operating budgets. In these cases, excess insurance to cover catastrophic losses is usually purchased commercially. Self-insured systems must also assume the responsibility for the legal and administrative costs of claims handling.

For many small agencies this degree of self-insurance is not a viable option because of the lack of discretionary budgets or reserves needed to cover losses. However, many small agencies can afford deductibles, which are a form of self-insurance. You can effectively lower your premiums by increasing the amount of your deductible. This, along with a strong risk management and safety plan, is a very reasonable solution to controlling your insurance costs.

A third approach to insurance is a form of self-insurance, however, instead of assuming the total financial responsibility for losses, agencies share the responsibility by pooling resources.

Self-insurance pools are formed when a group of agencies agree to jointly fund each other's losses. Each agency in the

pool contributes to a trust fund and in turn receives coverage. Typically an insurance broker will be retained to negotiate insurance rates on behalf of pool members. As in all situations, there are advantages and disadvantages to pooling. Pooling can spread the risk to an extent that a single self-insured system cannot. For example, while a large loss could be catastrophic to a single agency, it would not be to a group of agencies. Pooling also allows you to spread the costs among several parties, and allows you to have more control over the services connected with insurance. On the other hand, you will be part of a group. And in all group situations, there may seem to be some winners and some losers. Since you share the risk of fellow pool members, you will pay for the losses of any member particularly prone to loss. Still self-insurance pools have been very successful across the country in controlling insurance costs and providing a viable option to commercial insurance.

The bottom line to solving the insurance dilemma is to persevere. If you find that you don't fit under a certain insurance model, for example within the county or city's insurance consortium, research what their requirements and definitions are and redefine your services so that they do fit. If one insurance carrier won't work with you, look for one that will. Research the possibility of joining, or forming an insurance pool. Review your current insurance policy to determine if self-insuring more of your deductible can significantly lower your insurance premiums.

And, don't be afraid to challenge and question the information you receive.

Be your own advocate, but more importantly be an advocate for the people that will benefit from the coordinated service.

If for any reason your current insurance carrier cannot, or will not, provide insurance coverage for your joint use arrangement or if you are coordination project that includes mixing client populations, find one that will. Be prepared to shop around. Don't give up just because your first carrier says no.

### ***Best Practices***

#### ***Minnesota - Paul Bunyan Transit, Bemidji, Minnesota***

*When the City of Bemidji and Beltrami County transit services, under a Joint Powers Board, allowed Paul Bunyan Transit to contract directly with the Minnesota Department of Transportation for State and Federal funding, Paul Bunyan, a 501(c)(3) agency, found itself no longer eligible for insurance under the Minnesota Counties Insurance Trust (MCIT). This meant a potentially devastating increase in Paul Bunyan's insurance premiums. A change to its by-laws to open Paul Bunyan's meetings to the public and give the Joint Powers Board some project oversight, such as requiring a majority vote of the Board to approve State and Federal applications, allowed the operator to remain eligible for insurance under MCIT and retain the lower insurance premiums. For more information, contact Greg Negard, Executive Director, at (218) 751-8765 or [pbtrans@paulbunyan.net](mailto:pbtrans@paulbunyan.net).*

#### ***Iowa***

*In response to skyrocketing insurance rates, a group of transit systems in*

*Western Iowa banded together to obtain fleet insurance through an insurance consortium. A total of 300-500 vehicles were insured through the consortium. The consortium's success is attributed to the perseverance of an independent insurance broker who negotiated with a variety of insurance companies on behalf of the transit system consortium.*

*For more information, please contact Donna Johnson, Iowa DOT Office of Public Transit, 515-233-7875.*

#### ***Washington State***

*On January 1, 1989, eight public transit systems united to form a self-funded liability only pool: the Washington State Transit Insurance Pool (WSTIP). The initial combined contribution was \$1,204,205. At the outset, the Pool offered \$10 million in limits per occurrence on a first dollar basis with a \$250,000 self-insured layer. Members were assessed based on their exposure of miles and boardings. The actuarial expected losses were \$460,000 and the administrative expenses were \$168,500. Today, WSTIP's membership has increased to 18 public transit organization, and three associate members. The current annual budget is approximately \$7.6 million. WSTIP provides auto liability, general liability, public officials (errors and omissions), all risk property, crime, and boiler and machinery. Members may select deductibles from \$0 to \$10,000. WSTIP provides optional Auto Physical Damage up to \$500,000 and Uninsured Motorists/Under Insured Motorists (UM/UIM) to \$60,000/occurrence. The current loss fund is actuarially set at \$3,550,000 and the administrative expenses are \$1.350.000. Current*

*member equity is in excess of \$7.2 million.*

*WSTIP is accredited by the [Association of Governmental Risk Pools](#).*

*For more information, visit the WSTIP website at <http://www.wstip.org/>.*