Local Government Insurance Trust

RISK MANAGEMENT BULLETIN

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Mutual Aid Agreements Between Law Enforcement Agencies

The federal PATRIOT (Provide Appropriate Tools Required to Intercept and Obstruct Terrorism) Bill, passed by Congress in response to the September 11 terrorist attacks, and signed into law by President Bush on October 26, 2001, as Public Law No. 107-56, grants increased authority to law enforcement agencies to gather and share information obtained through technological surveillance. This Bill, in combination with similar federal and state legislation, will require local law enforcement agencies to shoulder increased responsibilities and demands, including demands on limited manpower and strained budgets. It is therefore imperative that local governments formulate and implement effective risk management programs; programs that may include mutual aid agreements between local and federal law enforcement agencies.

Mutual aid agreements are an effective means of meeting expanding law enforcement needs, and may, in fact, reduce the volume of claims arising from the provision of law enforcement and emergency services. This is especially true if the agreement specifies each participant's duties and responsibilities, and designates/assigns responsibility for potential liability.

In drafting a mutual aid agreement, principles applicable to the drafting of contracts come into play. A properly drafted agreement will answer all-important questions, including the following:

Does the agreement identify the legislative enactment authorizing its creation?
Is the agreement mutually beneficial or drafted in favor of the federal participant?
Is the nature and scope of each participant's responsibilities spelled out in the agreement?
Does the agreement identify which law enforcement agency or agencies will be responsible for directing and controlling operations?
Does the agreement identify which law enforcement agency or agencies have authority to request the services of the other participants?
Does the agreement include specific provisions concerning withdrawal from or termination of the agreement?
Does the agreement address the additional costs or expenses that may be incurred by participants because of losses/claims against other participants?
Does the agreement designate which entity or entities will assume liability if and when property is damaged or bodily injuries incurred?
Does the agreement incorporate all statutory, constitutional, or common law immunities that may be available?

Does the agreement address all pertinent budget and funding issues, including overtime, workers' compensation, loss of service, claims, extra insurance costs, high claims increasing renewal premiums, etc.?

Please note that Maryland law mandates that LGIT may only add the State and other local governments as additional insureds. Additionally, LGIT recommends that local governments reject any and all indemnification/hold harmless agreements that obligate them to pay for damages arising from the acts or omissions of any person or organization, including federal agents or employees.

Please see your LGIT Risk Management Manual for further information on Mutual Aid Agreements.

If you have questions or comments, please contact Hank Schomburg, Director, Loss Control & Underwriting, at 800-673-8231.

This bulletin is intended to be merely informational and is not intended to be used as the basis for any compliance with federal, state or local laws, regulations or rules, nor is it intended to substitute for the advice of legal counsel.