

MUNICIPAL JOINT
INSURANCE FUND



SAFETY
COORDINATOR
HANDBOOK

TAB 7

ROADWAY, SIGN, and WALKWAY Program

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WHAT'S IN THIS SECTION:

- Streets and Roads
- Road Maintenance
- Suggested Roadway, Sign, Walkway (& Boardwalk) Inspection Program
- Sign Inspection & Maintenance Program
- Accident Investigations
- Sample RSW Tool Box Training Talk
- Sample RSW Forms:
 - Roadway, Sign, Walkway & Boardwalk Alert Form
 - Roadway, Sign, Walkway & Boardwalk Tracking Form
 - Roadway, Sign, Walkway & Boardwalk Referral

SAFETY COORDINATOR ACTION ITEMS:

- ✓ Review contents of this section
- ✓ Establish report formats for observations
- ✓ Consider presenting the "Roadway, Sign and Walkway" Toolbox topics for employees and supervisors so they have a better understanding of the process.
- ✓ Submit an excerpt of the RSW&B log with the Safety Incentive Program report.

STREETS AND ROADS

The design and maintenance of streets and roads represents one of your community's greatest challenges. Because of the importance of the automobile in American society, a significant amount of litigation against public entities centers on the alleged negligence of local governments in the design and care of public streets and roads.

Liability from streets and roads can usually be classified into two broad categories: *design* and *maintenance*. This classification came about because of the various ways states have traditionally imposed liability on local communities when the state allocated responsibility for negligent acts.

In some states, the local government is not responsible for road design; it is a state function, and the state government has exempted itself from liability in road issues. These same states have generally extended this exemption to their counties, as counties are generally thought to be subdivisions of the state government. Check with your legal counsel to see what your legal liabilities are regarding road design.

ROAD DESIGN

If your municipality is responsible for road and street design, the following issues require attention:

Design Professionals:

Even in the very largest municipalities, the actual design of roadways is often accomplished by professionals under contract. For smaller towns, the first step in preventing liability claims is to select qualified professionals to design roads and traffic improvements.

Most road projects involve more than just creating a road bed in the desired location. Drainage, slope, crown of the road, radius of curves and traffic control devices often become the focal point of litigation. The following tasks should be done when selecting any design professional, whether under contract or in your employment.

- Verify professional education.
- Verify state licenses, if required.
- Obtain and verify professional references.
- Thoroughly understand your state's selection process for obtaining professional services, and use it to your advantage.
- Require disclosure of any claims against the design professional for professional errors and omissions.
- Evaluate the need for performance bonds and professional errors and omissions insurance. Even if the cost of insurance is high, or certain bonds or coverages are unavailable to certain professionals in your area, you should require these coverages.

Contractors and Sub-Contractors:

If few public agencies design their own roads, then even fewer build them. Most small public agencies contract with the state, the county, another city or a private contractor to construct a road from a design's plans. Regardless of how or who you use to construct your roads, the summary below should guide you in your efforts.

Selection of a contractor and sub-contractors for road construction projects is generally done by competitive bidding. Seek legal counsel to fully understand what the competitive bid statute really means. Under certain circumstances you may not be compelled to take the lowest bid. You may legitimately inquire about and make decisions to arrive at the lowest qualified (responsible) or lowest responding bidder for your project.

Some of the elements of a good bid specification include but are not limited to the following items. Refer questions to your solicitor or municipal engineer,

- Prior experience of the firm
- Prior experience of its employees
- References and their verification
- Listing of any jobs on which they have defaulted and the reasons
- Cancellation, non-renewal, revocation or refusal of an insurance company to continue its insurance and bond coverages
- Adherence to all federal, state and local safety and worker protection regulations
- Adherence to the Federal Uniform Standard for Traffic Control Devices at all times, without exception
- Authority of the project manager, if a project manager is going to be used
- Annual financial report of the bidder audited by certified public accountant, with an unqualified opinion by the auditor. Do not accept a notarized financial statement
- Clear and concise plans of the project to be bid in sufficient sets and detail so that a meaningful bid may be obtained. Good bidding practices will include plenty of time to hold pre-bid conferences and site inspections. A well-informed bidder is your best chance of obtaining quality work, on time and within budget.
- Please review appropriate state statues to delineate required components of a bid specification.

Construction Practices:

Given the information above, it is still important to oversee the project and manage it to its successful conclusion. Remember that you cannot delegate all of your responsibilities to others, even through contract. Even if you have hired a project manager and contractors to construct your road, you still have to monitor their activities, to determine if the contracts are being followed.

This does not mean that you manage the day-to-day activities of your independent contractors. But you should conduct periodic inspections of the work to reaffirm that your progress payments and timetables are being met and that general safety practices, such as approved barricades and traffic control devices, are being used appropriately.

Contractual Liability:

Contracts between public agencies and contractors generally need special attention. Always consult with your legal counsel and Risk Management Consultant when developing a construction contract. ***Prior to execution, refer to the JIF website coverage tab to see the “Guidelines for Certificates of Insurance, Additional Insured requirements & Hold Harmless Agreements.”***

As a public agency, you have some specific responsibilities that you can transfer through a contract and some that you cannot. Here are some “do’s and don’ts” you should incorporate into your contracts.

Always

- Obtain legal and risk management review for each project
- Review all insurance and performance bonds to be sure they meet or exceed requirements prior to commencement of work.
- Transfer risks to the contractor and sub-contractors through indemnification and hold-harmless agreements and have valid and collectible insurance supplied by the contractor to back them up.
- Follow state law in regard to selection and appointment of all contractors.

Never

- Accept nor sign pre-formatted or “Boilerplate” contracts offered to your organization by any professional group such as the American Institute of Architects, Associated General Contractors and the like.
- Never process a payment to a contractor until all paperwork (payment authorization from Municipal Engineer, certified payrolls, etc.) has been received and approved by the appropriate municipal personnel

Unless amended, these contracts transfer all risk to the public agency!

- Fail to fire, shut down or otherwise take immediate action if a contractor violates your contract terms. Violation of your contract terms usually means that your citizens and the general public are at risk. Remember, you cannot delegate your duty to keep your streets and roads safe, even if you have an enforceable contract with the contractor.
- Fail to follow your own state and local laws when it comes to such issues as zoning, environmental assessments, planning policies and public hearings.
- Accept non-standard work without written documentation from the contractor as to why the substitution should be accepted and how its substitution will affect the standards established in your contract and bid specifications. All deviations from the specifications (Change Orders) must be accepted by the Municipal Engineer

ROAD MAINTENANCE

The single greatest management concept that imperils public entities each year is the budget maneuver called “deferred maintenance.” Public agencies sometimes use lack of funds as an excuse for ignoring defects in public roadways. Some public agencies never seem to have enough money for maintenance and preventive action, but they always find money to pay for the results of their inaction.

The best claim is the one that never happened. Your municipality should establish a system for identifying hazardous situations and taking appropriate action. Most local governments with road maintenance responsibilities have created defect-reporting systems to alert management to problems with roads, streets, sidewalks, water utilities and the like.

Some jurisdictions require workers to keep reporting forms in the glove compartment of all public vehicles that use public roads. When workers see a road defect, they can fill out a form immediately and submit it when they return to the office.

An effective defect-reporting system should involve the public as well as the employees of your entity in reporting defects. Standardized complaint forms can be an effective tool for citizens to notify you local government of road defects. Whatever type of system you develop, you must ensure that it has appropriate safeguards to validate its effectiveness.

Because maintenance and improvement work generally takes place on roads that are currently in use, maintenance workers must share an active roadway with your citizens. Case histories have shown that the most horrible accidents have taken place when maintenance operations have violated the traffic control guidelines established by state departments of highways and the Federal Uniform Traffic Control Devices Manual.

Briefly, these problems can be grouped as follows:

- Improper traffic control, especially warning signs and barricades, both at night and during the day.
- Improper parking and positioning of work vehicles along the job site.
- Improper job techniques that result in accidents and injury during the job, or after it is completed.
- Improvements such as light poles, landscaping, directional signage and building materials that contribute to vision obstruction or similar problems, rather than driver safety

A suggested Road, Sign, Boardwalk, and Walkway Program is included in the following section:

SUGGESTED ROADWAY, SIGN, WALKWAY & BOARDWALK INSPECTION PROGRAM

The Roadway, Sign, Walkway and Boardwalk program has been established as an inspection, reporting and referral system. The records developed as part of the inspection program serve as a notification and work order system to assure that observations are reported, corrected and documented. The tracking log serves as a way to record and track observations reported by residents and other citizens, and follow through on corrective action. The program consists of six elements:

1. A system of regular inspections and observations (ex: Sign Inspection and Maintenance Program).
2. Training for employees to identify potential hazards
3. Procedures for employees and citizens to report potential hazards (Condition Report)
4. Procedures to log all reports and record corrective action (Tracking Log)
5. Procedures to notify other entities / authorities of conditions and/or incidents that require attention (Referral Report)
6. Procedures to investigate incidents and accidents

SIGN INSPECTION & MAINTENANCE PROGRAM

Over a period of time, signs and traffic control devices become weathered, vandalized, damaged or simply disappear. Because of the importance of maintaining these traffic control signs and devices in good visual and operational condition, an ongoing maintenance program is necessary.

In order to assure that the program is effective, it is necessary to determine if the signs and devices are:

- Properly hung and secured
- Visible to the intended viewer and unobstructed
- Legible or identifiable condition
- In operational condition

The following sign inspection and maintenance procedures are suggested:

- All signs should be inspected a minimum of twice a year.
- A written record of each sign location should be maintained and the condition of the sign recorded as noted.
- All signs should be properly hung according to height and location requirements as specified by the New Jersey Department of Transportation regulations.
- Any sign that is bent, defaced, damaged or missing should be replaced immediately.
- Any sign that is obstructed by any physical obstruction, that obstruction should be immediately removed.
- All support members should be in a good structural condition.

Please review the applicable administrative regulations prior to the installation of all new traffic control signage or changes to any existing control devices, such as installation of new stop signs or the reduction / increase of speed limits, etc.

Roadway, Sign, Walkway and Boardwalk Condition Alert Form

This report form serves two purposes: It serves as a written report of the observed condition and documents the completion of corrective actions. This report form can be used by any department within a municipality or by individual employees. Copies of this form should be kept in all municipal vehicles so they are readily available. Observations should be documented and referred to the proper department for corrective action.

These records can be used as mechanism for the municipality to develop a long term capital improvement program.

Examples of Conditions to be Noted:

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|---|---|
| <ul style="list-style-type: none">• Street lights not working• Traffic signal not operational• Signage is faded• Signage is missing• Potholes or cracks in surface present trip/ fall hazards• Uplifted manhole covers• Uneven road surfaces• Blocked storm drains | <ul style="list-style-type: none">• Designated lines are faded• Sink holes / potholes• Ruts and valleys• Protruding pipe caps• Loose manhole covers• Debris• Poor illumination• Visual obstructions• Improper signage |
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Roadway, Sign, Walkway and Boardwalk Condition Tracking Log

A log of observations, complaints and corrective actions should be maintained to track progress and provide supporting documentation that you are or have addressed the conditions reported.

Roadway, Sign, Walkway and Boardwalk Condition Referral Report

The Referral report is used to serve as written notification for other authorities or agencies that may have jurisdiction over the conditions noted in the RSW&B report. For example, if there is a blocked or missing sign in your municipality at an intersection controlled by the county, this report form would be used to notify the county of the condition.

Not only does this serve as a way to communicate with the other agencies involved, but it also provides documentation that would be helpful in defending a claim.

ACCIDENT INVESTIGATION of ROADWAY INCIDENTS

Even the best designed roads cannot prevent all accidents. Human error inevitably leads to accidents, especially when automobile traffic is concerned. Your community should have an established protocol when a serious automobile accident takes place on roadways and streets for which you are responsible. A separate standard accident investigation protocol should be used when the accident involves one of your vehicles.

This accident investigation protocol should include the following for any automobile accident involving an intersectional collision or serious injuries:

- Have a police accident investigator take pictures not just of the accident scene, but wide angle pictures of the approaches to the intersection, from a minimum of a block away from each direction. Try to show in the picture what the drivers saw as they approached.
- If available to your community, use a hi-lift or cherry picker to take bird's eye views of complex intersections or accident scenes.
- Have a checklist for the police investigator to follow in taking the pictures. All pictures should be taken within the context of the scene, at the time of the accident. Conditions of guard rails, cycles of the traffic signals, lines of sight, condition of signage and landscaping features should be on the checklist.
- Identify all witnesses and obtain detailed statements as soon as possible. If any witness indicates that a road defect was involved, secure your own records on such items as traffic counts, traffic surveys, trouble calls, repair orders and other internal information that will help establish the true condition of the road at the time of the accident.
- Notify your claim or insurance investigator as soon as possible if any accident caused death, head injuries, loss of use of any limb or bodily function or other serious bodily injury.

Develop a way to maintain your records accurately for an appropriate period. New Jersey has guidelines dictating how long your agency must maintain its records. Review these guidelines with your legal counsel to ensure that your record-keeping procedures are adequate. Any records that are, or might be, involved in litigation should be maintained until the case has exhausted all of its appeals. Cases involving minors should be held until the minors reach their age of majority (18), plus the statute of limitations period (2 years) once they reach their age of majority.

Sample Roadway, Sign & Walkway Program “Tool Box Talk”

Date Presented: _____ Department _____ Presenter: _____

A discussion of (Municipality's) Roadway, Sign, and Walkway program

The design and maintenance of streets and roads represents one of our community's greatest challenges. Accidents arising from alleged poor surface conditions and poor sign maintenance are a leading cause of liability claims against member municipalities. These claims typically represent 18% of our claim frequency and 15% of our award costs. The (Your JIF) JIF requests that all municipalities establish a RS&W program and has provided sample forms. We receive credit for the program in the annual Safety Incentive Program.

The best claim is the one that never happened. Our municipality has established a system for identifying hazardous situations and taking appropriate action. Like most other local governments with road maintenance responsibilities we have created a defect-reporting system to alert management to problems with roads, streets, sidewalks, water utilities and the like. (Describe your system) In order to assure that the program is effective, it is necessary to determine if the signs and devices are 1) properly hung and secured; 2) Visible and unobstructed; 3) Legible or identifiable condition and 4) In operational condition.

Examples of Conditions to be noted:

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| <ul style="list-style-type: none"> • Street lights not working • Traffic signal not operational • Signage is faded • Signage is missing • Potholes or cracks in surface present trip/ fall hazards • Uplifted manhole covers • Uneven road surfaces • Blocked storm drains | <ul style="list-style-type: none"> • Designated lines are faded • Sink holes / potholes • Ruts and valleys • Protruding pipe caps • Loose manhole covers • Debris • Poor illumination • Visual obstructions • Improper signage |
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Our Roadway, Sign, and Walkway program has been established as an inspection, reporting and referral system. The records developed as part of the inspection program serve as a notification and work order system to assure that observations are reported, corrected and documented. The tracking log serves as a way to record and track observations reported by residents and other citizens, and follow through on corrective action. The program consists of six elements:

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We encourage all municipal employees to report any damage, vandalism or theft at the first opportunity using the Road, Signage and Walkway Condition Report. (Show a copy)