LAC SELF-INSURED FUND

3000 Kilpatrick Boulevard, Suite 100
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318-322-2999
800-798-2999

MEMORANDUM

To: All Fund Members

From: Terry M. Duke

Date: July 25, 2005

Subject: Independent Truckers

Over the last several months we have tried to explain to all members the issues surrounding independent contractors. Recently it came to our attention that a single sentence was added to the workers' compensation law regarding the definition of "Independent Contractors." Our legal interpretation is that this applies ONLY to those independent contractors engaged in trucking.

As such, we are hereby amending our position regarding the hiring of independent truckers. We will no longer require you to pay a premium or obtain a Certificate of Insurance on hired trucking if you meet two qualifications.

First, the workers' compensation law requires a "Written Agreement" that identifies the trucker as an "independent contractor." The law does not specify any language for this written contract. Our attorney suggest that it should contain a minimum of the following:

1. Identify the parties involved. (ABC Gin, LLC agrees to hire <u>John Doe Trucking</u>, an independent contractor)

2. What is the scope of the work required? (provide truck and driver to haul _____)

3. Term of Agreement. (By the load, three months, etc)

4. The amount you are willing to pay for this service. (by load, mile)

5. The document is dated and signed by both parties.

Secondly, at the point you have a written contract, we are providing (enclosed) a "Addendum to Contract – Statement of Independent Contractor Status." This form would then need to be signed and attached to the written contract. At audit, (LAC Self-Insured Fund) will accept this document in lieu of the Certificate of Insurance. Actually, we prefer that the truckers carry their own coverage. Only use this option when they do not have their own insurance coverage.

It should be pointed out that this is an aggressive position being taken by your self-insured program on your behalf. We will pay or defend you should you be drawn into a workers' compensation claim by one of these independent truckers. However, we reserve the right to go back to requiring Certificates of Insurance or additional premium should the courts decide our Independent Contractor status form is not legal and binding.

Remember three things:

1.   This applies to independent truckers only.

2.   It requires a written contract

3.   The Independent Contractor Status form is signed and dated.

Please call me at 1-800-798-2999 should you have any questions regarding our position in this matter.

ADDENDUM TO CONTRACT:
STATEMENT OF INDEPENDENT CONTRACTOR
STATUS

I, the undersigned (sometimes referred to herein as "Operator" and/or "Independent Contractor"), do hereby acknowledge, understand and agree as follows:

1. Effective June 10, 2004, Section 23:1021 (6) of the Louisiana Workers' Compensation Act was amended to provide that the operation of a truck tractor or truck tractor-trailer is <u>not</u> manual labor for the purposes of the Act. Pursuant to this Section, "Operation" includes all related activities such as fueling, connecting and disconnecting lines and hoses, connecting and disconnecting trailers, and inspecting the vehicle or trailer. Accordingly, because the operation of a truck trailer or truck tractor-trailer is not manual labor, an independent contractor who operates a truck trailer or truck-tractor-trailer is not entitled to compensation from the party for whom the operator provided services.

2. I acknowledge that I am an Operator of a truck tractor or truck tractor-trailer as indicated above. I further acknowledge that I, and any drivers provided by me, as Independent Contractor(s) is conclusively established by my execution of this document.

_____
Operator/Independent Contractor
(Please Print)

_____
Contracting Person or Business
(Please Print)

_____
Operator/Independent Contractor
(Please Sign)

_____
Date