

LAC SELF-INSURED FUND

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Memorandum

To: All Fund Members
From: Terry M. Duke
Date: September 7, 2012
Subject: Independent Contractors

The purpose of this memorandum is to remind our members to obtain Certificates of Insurance from all “Independent Contractors”. By “all” we mean, those contractors engaged in the course and scope of your business profession. We are not so concerned with the work of professionals (i.e. CPA’s, Accountants, and Consultants); however, in some cases they may qualify as statutory employees.

Should you fail to secure these evident of Workers’ Compensation coverage (Certificate of Insurance); at audit your premiums will be increased based on a percent of the amount paid to these contractors. The hiring of “Independent Truckers” is the largest issue we deal with annually. A couple of years ago, we provided an option regarding our truck-tractor operators. If the truck-tractor operator cannot provide a Certificate of Workers’ Compensation Insurance, you may do the following:

Have a “written contract” drawn up between yourself and the trucker. This does not require an attorney prepared document. It could be hand written if it provides these five items:

1. Identify the parties involved. (Your entity agrees to hire Joe Doe Trucking, an Independent Contractor).
2. What is the scope of the work required? (provide truck and driver to haul your commodity from point A to point B).
3. Term of Agreement (by load, time, etc).
4. The amount you will pay. (so much per mile/load/bale).
5. The document needs to be signed and dated by both parties.

Once you have the “written contract”, have the contractor sign a copy of the attached “Addendum to Contract”. Attach the Addendum to the “Contract” and retain it in your records. We will need a copy of these documents in the event of a claim being reported by the contractor and at the Payroll Audit.

The combination of “written contract” and “Addendum” will take the place of the contractor having workers compensation coverage. Please remember, that this only applies to truck tractor-trailer operations not module trucks, bob trucks or spreader trucks. It also does not apply to situations where the driver does any work other than activities related to the servicing of the tractor or trailer. For example, should the driver be required to load or unload the trailer, this option does not work. Understand we would prefer that you hired truckers with workers’ compensation insurance and do not use this option.

We have no other option for any other “Independent Contractor”. There will be times when your only option is to hire an uninsured contractor. We recommend you call us to discuss this type of situation in advance. We realize that these matters become technical and burdensome. However, we are dealing with the Louisiana Workers’ Compensation Law. It changes with every legislation session and judicial interpretation. Our goal is to reduce our member exposure to claims while protecting the Fund from paying claims when no premium was collected.

Please call myself or LaToya Thomas should you have questions about Independent Contractors you may hire.

**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 not 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