



Liability & Property Pool Workers' Compensation Fund

RISK CONTROL SOLUTIONS

A Service of the Michigan Municipal League Liability and Property Pool and
the Michigan Municipal League Workers' Compensation Fund

VOLUNTEERS FOR PROJECTS OR EVENTS

Municipalities may occasionally seek or be offered the volunteer services of community members to complete specific projects or to assist with recreational programs or other sponsored community events. These projects may involve work the municipality completes annually, such as a neighborhood spring clean-up, or one-time projects like building and installing new playground equipment. While all municipalities would like to take advantage of such volunteer efforts, the risks associated with using volunteers should be fully considered to get the most benefit from volunteer efforts and avoid possible adverse outcomes from accidents and injuries.

When considering using volunteers, municipalities should assess the possibility of injuries to the volunteers, harm to others, or damage to municipal or third-party property. The chance of injury while completing work for the municipality is present whether the person is a paid employee or a volunteer. However, employee injuries are almost always covered under a municipality's workers' compensation insurance. Aside from emergency service volunteers, community members who volunteer to work on municipal projects will not receive workers' compensation insurance coverage. If the injured volunteer does not have health insurance or other applicable coverage, they may incur substantial medical costs for which they will be personally responsible. The volunteer may also decide to bring an action for negligence against the municipality to recover the costs of their injuries.

Because of this, the municipality should always consider the type of work each volunteer is assigned to perform. Specific work, such as picking up litter or raking leaves, can likely be performed by persons with a wide range of physical capabilities. However, a task as simple as climbing a ladder may involve an unacceptable risk for some people. A fall from a height as little as three or four feet high may result in severe fractures or other injuries and significant medical bills and long-term treatments. Therefore, jobs should be assigned to each volunteer based on their physical capabilities and past work experience. For those under 12, municipalities should limit volunteer work to the most basic physical activities. Although the municipality is not paying volunteers for their work, it should be viewed similarly to the hiring process for new employees. Capabilities and skills should be assessed to determine the best fit for the job assigned. Also, a criminal background check on those volunteers is necessary if volunteers will be working on a project or event involving children or other vulnerable individuals.

Hazardous work involving electricity, heavy construction, and power tools like chain saws, man lifts, or backhoes should not be assigned to volunteers who lack prior training and experience in performing such work. Volunteers under 18 should never be used to complete such work and should not be allowed to operate municipal vehicles. The municipality should provide volunteers with the required personal protective equipment (PPE) that they would provide to employees based on the hazards of performing such work.

A municipality may be offered the services of professional contractors to complete a project. The experience and training of such volunteers should be assessed just as if the municipality were hiring the company to complete the project. Additionally, if the volunteer contractor's employees are injured during such work, the state workers' compensation system will look to the employer to cover the costs of these injuries. It is imperative the municipality ensures the contractor maintains active workers' compensation insurance prior to allowing them to perform any work for the municipality. If the contractor does not maintain workers' compensation insurance, the municipality could be held liable for the injured volunteer contractor's employee as a "statutory" or "shoot-through" employer pursuant to MCL 418.171, making the municipality responsible for all workers' compensation benefits.

Similarly, projects may also involve the risk of damaging either the municipality's property and equipment or the property and equipment of third parties. Unlike workers' compensation coverage, damage to the property of third parties may likely be covered under the municipality's property and general liability insurance regardless of who is performing the work – a volunteer or municipal employee. This should be confirmed with the municipality's insurer to verify if any additional steps need to be taken. An additional benefit of hiring an experienced professional contractor to complete certain project parts is that such business should carry their business liability insurance that will provide added liability coverage for the municipality in the event of damage to third-party property.

Another aspect to consider in completing specific projects, such as construction work or repairs to municipal property, is how the work is completed. Faulty construction or improper repairs to municipal property and possible damages that occur later may not be covered under the municipality's property insurance as these are usually excluded from most policies. Given its current coverage, the municipality should always consult with its insurance carrier to assess the best course of action. Also, projects such as constructing and installing new playground equipment must be completed according to the manufacturer's specifications to benefit from the manufacturer's liability protection for defective products. The work of volunteers on such projects should be supervised by municipal staff to ensure that work is completed according to manufacturer specifications. Additionally, Michigan Public Act 16 of 1997, The Playground Equipment Safety Act, defines requirements for the construction, installation, and maintenance of public playground equipment. These requirements must be complied with, even if volunteers donate or install the equipment.

While damage to automobiles used by volunteers would likely be covered under the municipality's insurance policy, damage to municipal equipment resulting from misuse will often not be covered under most policies. A municipal employee will likely have years of training and experience properly using power tools and other heavy equipment. When used by a municipal employee, the risk of misuse of such equipment is less than if an inexperienced volunteer is allowed to use such equipment. However, as outlined above, a well-qualified professional contractor may offer volunteer services but not be willing to use their equipment for specific reasons. Depending on the contractor's experience, training, and other qualifications, the municipality may decide to allow such use of its equipment under the right circumstances. This situation may be more desirable from a risk standpoint than allowing the average citizen to use municipal equipment. In any case, the municipality should provide training on the proper use of its specific equipment to any volunteers or paid contractors allowed to use municipal equipment.


Volunteers should always be supervised by a municipal employee when completing projects. Volunteers working with children or other vulnerable populations should be closely supervised and never be left to

work alone. Even simple tasks, such as picking up litter or raking leaves, should be supervised to ensure that work is performed correctly and third-party property is not at risk. If volunteers are allowed to use such things as power tools or chemicals, such as pesticides, cleaning products, paint, or stains, the level of supervision should be increased. The level of supervision should be the same as (or greater, given the volunteer’s lack of experience) if your employees were completing the work.

Lastly, municipalities should require interested volunteers to sign a hold harmless liability waiver before starting their assignments. This waiver should inform the volunteer of the possible hazards associated with the work or tasks and that they will not hold the municipality liable for any personal injury sustained while performing volunteer work. The municipality’s legal counsel should approve the waiver.

Municipalities are encouraged to consult with their legal counsel to discuss the particulars of any proposed volunteer project and possible legal considerations to be aware of. Municipalities are encouraged to consult with their MML loss control consultant when considering such volunteer-involved projects.

***Contact MML Risk Management Services Staff/
or your Loss Control Consultant for more information.***

	Important Phone Numbers
MML Risk Management Services	734.662.3246 or 800.653.2483
Loss Control Services	800.482.0626

Note:

***This document is not intended to be legal advice.
It only identifies some of the issues surrounding this topic.
Public agencies are encouraged to review their procedures with an expert
or a competent attorney who is knowledgeable about the subject.***

SELF-ASSESSMENT: VOLUNTEERS FOR PROJECTS OR EVENTS

Municipalities should conduct the following self-assessment to reduce the exposure to claims of injuries, civil liability, or property damage resulting from the use of volunteers. This self-assessment will help you address the critical issues related to potential risk exposures.

Organization Name

Completed by

Date

Does Your Organization:

(A response of "No" may require further analysis and/or an action plan for correction.)

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Need volunteers to accomplish the project or staff the event? If there is a way forward without involving volunteers, choose that option. Risk avoidance is always the most effective risk management strategy.
<input type="checkbox"/>	<input type="checkbox"/>	Assess the risk for injury and property damage that could occur?
<input type="checkbox"/>	<input type="checkbox"/>	Complete a pre-task analysis to identify the skills, experience, and abilities needed to complete the task(s) and the type of PPE required?
<input type="checkbox"/>	<input type="checkbox"/>	Assign tasks or duties based on experience, skills, and abilities?
<input type="checkbox"/>	<input type="checkbox"/>	Require potentially hazardous tasks to be performed by municipal staff with the experience, skills, and training needed to complete the assignment safely?
<input type="checkbox"/>	<input type="checkbox"/>	Have enough knowledgeable staff to adequately supervise and monitor volunteer workers?
<input type="checkbox"/>	<input type="checkbox"/>	Complete criminal background checks for volunteers working with children or other vulnerable populations?
<input type="checkbox"/>	<input type="checkbox"/>	Have a robust informed consent liability waiver form approved by legal counsel?
<input type="checkbox"/>	<input type="checkbox"/>	Recognize that juveniles cannot waive their legal rights – and neither can their parents?
<input type="checkbox"/>	<input type="checkbox"/>	Assign juvenile volunteers non-hazardous duties only and closely supervise them at all times?
<input type="checkbox"/>	<input type="checkbox"/>	Involve your legal counsel and insurer's loss control or risk management consultant as part of the planning stage for all volunteer-involved projects?

CONCLUSIONS



If you can honestly answer "yes" to all applicable questions, your risk management program for using volunteers is on solid footing – congratulations! Following the recommended practices reduces your organization's exposure to future claims in this area. Remain vigilant for new or changing risks and address them promptly.



If you answered "no" to one or more questions, your organization faces increased exposure to claims due to volunteer participation, and the associated direct and indirect costs. Each "no" response indicates a possible deficiency in your risk management program. You should consider these carefully and take one or more of the actions below:

- Correct any deficiency that may exist;
- Contact your attorney for advice;
- Contact MML Risk Management Services or Loss Control Services at the numbers below:

**Contact MML Risk Management Services Staff/
or your Loss Control Consultant for more information.**



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