Virginia's First Regional Industrial Facilities Authority

Radford, VA

Risk Management & Insurance Program Analysis

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Virginia’s First Regional Industrial Facility Authority

Table of Contents

SECTION I

GENERAL SUMMARY OF INSURANCE PROGRAM

GENERAL SUMMARY OF INSURANCE PROGRAM

Virginia’s First Regional Industrial Facility Authority current insurance program contains four insurance policies and the VA Risk 2 public officials/directors and officers program. This report has been prepared based upon policy reviews, interviews, and submitted documentation.

Overall, there is room for improvement as outlined throughout this report. Most of these recommendations involve enhancements to reduce gaps in coverage. Some of our recommendations may appear to represent an overstatement of detail. In our opinion, it is better to know and discuss these details before Virginia’s First Regional Industrial Facility Authority is forced to discuss them after a loss occurs.

Based on the purpose of the authority, the insurance policies (see schedule of insurance) and the relevant documentation reviewed, many of the insurable losses that occur to similar authorities are addressed by these policies. The consultant believes Erie Insurance and VA Risk 2 are not the best choices available to the VFRIFA. Erie Insurance is a financially sound underwriter of several types of commercial risks but is not a viable insurer for the insurance program of a Virginia political subdivision. The VA Risk 2 program has provided liability protection to many Virginia political subdivisions for several years, however, they are not the only provider of affordable public officials liability insurance. If all VFRIFA insurance coverage were provided by one insurer, there would be no “gray” area or “excess liability” claims disputes between insurers. The benchmarks analysis in this report reveals the rates charged by Erie Insurance are relatively higher than rates charged by insurers of similar political subdivisions. The consultant is hopeful Erie Insurance will agree to the many or all of the coverage recommendations in this report.

This report makes several recommendations that seek to:

A. Improve coverage where the loss potential is the greatest.
B. Reduce the cost of insurance where the historic loss experience has been minimal.
C. Enhance the effectiveness of Virginia’s First Regional Industrial Facility Authority’ relationship with its current broker/insurers or inspire a new relationship with another insurance organization.
D. To position Virginia’s First Regional Industrial Facility Authority for the best possible insurance options available when alternatives are desired.

E. To prepare the insurance program to address loss exposures created by economic growth opportunities and to transcend the turnover of key individuals.

Erie Insurance is the only insurance company utilized to provide coverage, their AM Best rating is A+. The VA Risk 2 program is not an insurance company and does not have a financial rating.

It is our opinion that overall, Virginia's First Regional Industrial Facility Authority' insurance program requires changes from both a coverage and pricing standpoint. We recommend making the "P**riority 5**" changes outlined in this report immediately and seek alternative proposals from the VMLP and VACoRP at least 90 days prior to 7/1/2010, the VA Risk 2 program effective date.

We are hope our comments and recommendations will prove valuable to meet the changing needs of the VFRIFA and would greatly appreciate hearing any thoughts or questions the reader may have.

SECTION II

INSURANCE AND RISK MANAGEMENT RECOMMENDATIONS

<u>Priority Scale:</u>

1 = Low, 3 = Important, 5 = Immediate

INSURANCE & RISK MANAGEMENT RECOMMENDATIONS

A. INSURANCE COVERAGE RECOMMENDATIONS

Risk Area-Operations such as structures and grounds maintenance, rental dwellings and real estate development.

Coverage Recommendation-To avoid coverage concerns, the proper classification of operations is needed. The current Erie Insurance liability policy is rated based on the "vacant land" classification. ***Priority 5.***

Risk Area-Potential coinsurance penalty applied to claims payments.

Coverage Recommendation-The two owned structures may be underinsured. We suggest having a dwelling value estimation on both properties from Erie Insurance to make sure the coverage is at or above the 80% coinsurance value. Also, consider having a historic value appraisal on the Mebane Estate to see if special historic property insurance is needed. The equipment must be insured at 100% of the actual cash value at the time of loss. ***Priority 5***

Risk Area-The application of the $1000 deductible to miscellaneous equipment losses.

Coverage Recommendation-Consider removing any tools/equipment from the submitted list that have an actual cash value of less than $1000. ***Priority 5***

Risk Area-Dalton/Phillips lease requires the tenant to insure the property for $355,000 but there is doubt of the structure(s) actual cash value being worth this much. The lease also requires $1,000,000 liability coverage, a certificate of insurance and the homeowners policy showing the lessor as named insured. This documentation has apparently not been received.

Coverage Recommendation-Consider having the structure appraised and if necessary, revise the lease agreement. The tenant should also provide the required insurance documentation. ***Priority 5***

Risk Area-Loss of rental income from a covered cause of loss (fire, tornado, etc.).

Coverage Recommendation-Request fair rental value coverage under the dwelling property insurance policy with Erie Insurance. ***Priority 3.***

Risk Area-Possible flood water damage to owned structures.
Coverage Recommendation-If flooding is possible near either or both owned structures, consideration should be given to purchasing this coverage from Erie Insurance. If either or both structures are located in a NFIP flood zone, consideration should be given to purchasing NFIP Insurance at various deductible options ($1000-$25,000). ***Priority 3***

Risk Area-Environmental and financial impact of above and below ground fuel storage.
Coverage Recommendation-Consider risk transfer remedies like environmental liability and clean up costs insurance on all tracts of land that have Phase 1 survey concerns. ***Priority 3***

Risk Area-The Commerce Park Industrial Area **sign** on Route 100 is not currently insured.
Coverage Recommendation-Consider purchasing coverage under the Erie Insurance Inland Marine policy at a lower deductible. ***Priority 3***

Risk Area-The land owned by the VFRIFA has potential for sinkhole damage to owned structures.
Coverage Recommendation-Request this cause of loss be added to the Erie Insurance polices, it is currently excluded. ***Priority 3***

Risk Area-Higher limits of liability insurance.
Coverage Recommendation-Due to lawsuits related to claims of bodily injury, property damage and monetary damages from the acts of public officials filed against similar entities, consider purchasing an additional $1,000,000 umbrella liability limit over the general liability limit and another $1,000,000 public officials liability coverage limit. ***Priority 3***

Risk Area-Blasting operations conducted by contractors on VFRIFA land.
Coverage Recommendation-These operations create unique liability concerns that require scrutiny of the contractors liability insurance program. ***Priority 1***

Risk Area-Theft of cash and other liquid assets managed by other entities.
Coverage Recommendation-If VFRIFA cash or other liquid assets are handled by other entities, consider requiring the other entity to purchase employee dishonesty coverage naming the VFRIFA as an additional named insured. ***Priority 1***

B. <u>RISK MANAGEMENT RECOMMENDATIONS</u>

Risk Area-Security protection on owned equipment used by tenants and other entities.

Recommendation-Consider requiring users to keep a "usage" log on the loader and the tractor. Maintaining a "usage" record will provide good "proof of loss" documentation in the event of theft of or damage to this valuable equipment. ***Priority 3***

Risk Area-Sharing operations and administrative support with the NRVPDC and NRV Development Corporation.

Recommendation-Request an outline of the current insurance program of both entities to make sure the VFRIFA is adequately protected for claims arising from the acts by either or both of these organizations. ***Priority 3***

SECTION III

BENCHMARK OF INSURANCE COST AND COVERAGE

VIRGINIA’S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY

BENCHMARK OF INSURANCE COST AND COVERAGE

The Virginia’s First Regional Industrial Facility Authority’s insurance program has been compared to similar political subdivisions using the following information:

1. Rates Per $100 of coverage;
2. Deductible amounts;
3. Liability limits;

The property rates are higher than those the VML and VACoRP apply to other similar authority properties with a $1000 deductible. However, the properties are a rental mobile home and the unoccupied older dwelling which would account for Erie’s higher rates. The $1000 deductible is not unusual for industrial authority property.

The primary general liability limits are normal but there is usually a $1,000,000 or more umbrella policy is in place for the large bodily injury, property damage or personal injury lawsuit. The public official liability $1,000,000 policy limit is normal to other authority limits but $2,000,000 is not uncommon. It should be noted the VA Risk 2 program does not offer a $2,000,000 or higher public official liability limit.

SECTION IV

INSURANCE POLICIES REVIEWED

VIRGINIA'S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY

SCHEDULE OF INSURANCE POLICIES REVIEWED

Insurance Coverage	Insurance Carrier/ Agent	Policy No.	Policy Period	Major Limits of Liability	Deductible	Premium
Automobile Liability	Erie/Wyatt Insurance	Q262500486	2/25/09-10	$1,000,000 Non-Owned Liability	N/A	$included
Public Officials Liability	VA Risk 2	G99G207	7/1/09-10	$1,000,000	$1,000	$550
General Liability -	Erie/Wyatt Insurance	Q262500486	2/25/09-10	$1,000,000/$2,000,000 Occ/Aggregate $5,000 Medical Payments	N/A	$1450
Inland Marine	Erie/Wyatt Insurance	Q460730150	10/7/09-10	$33,725 mobile equipment $8625 miscellaneous equipment	$1,000	$308
Property Damage	Erie/Wyatt Insurance	Q130300861	1/3/10-11	$516,000 Dwelling (all risk perils)	$500	$1348
Property Damage	Erie/Wyatt Insurance	Q130300860	1/3/10-11	$55,000 mobile home (named perils)	$500	$554
				TOTALS		$4210

AUTOMOBILE LIABILITY

POLICY NUMBER	CARRIER/BROKER	TERM	ANNUAL PREMIUM
Q262500486	Erie/Wyatt Insurance	2/25/09-10	Included with GL

Risk Covered	Covered Auto Symbols*	Limit of Insurance	Deductibles Applicable
Non-Owned Automobile Liability	9	$1,000,000	N/A

NONOWNED AUTOS ONLY. Only those autos you do not own, lease, hire or borrow that are used in connection with your business. This included autos owned by your employees or partners or members of their households but only while used in your business or your personal affairs.

CONTRACTORS EQUIPMENT

POLICY NUMBER	CARRIER/BROKER	TERM	ANNUAL PREMIUM
Q460730150	Erie/Wyatt Insurance	10/7/09-10	$308

RISK COVERED	LIMIT OF INSURANCE	CO-INSURANCE	DEDUCTIBLE APPLICABLE
Owned Equipment	$33,725	ACV	$1000
Miscellaneous Equipment	$8625	ACV	$1000

Coverage is written on a "comprehensive" perils form subject to specific exclusions. Claims will be valued on an actual cash value (replacement cost minus depreciation) basis.

DIRECTORS & OFFICERS LIABILITY

POLICY NUMBER	CARRIER/BROKER	TERM	ANNUAL PREMIUM
G99G207	VA Risk 2 Program	7/1/09-10	$550

RISK COVERED	LIMIT OF INSURANCE	DEDUCTIBLE APPLICABLE
Each Claim	$1,000,000	$1000 each claim
Aggregate	None	N/A

DIRECTORS & OFFICERS LIABILITY

COVERAGE SUMMARY

Please see the specific language in the VA Risk 2 program document enclosed Section I A:

"will pay all Covered Damages, except as herein limited, on behalf of the Covered Party which the Covered Party is legally obligated to pay on all claims, either first made or arising from any act occurring during the term of coverage on causes of action established by law by reason of liability arising out of acts or omissions of any nature while the political subdivision is acting in an authorized governmental or proprietary capacity and in the course and scope of employment and authorization".

Who is Insured

Please see the specific language in Section III A of the VA Risk 2 program document enclosed

Duty To Defend

Please see the specific language in Section I B of the VA Risk 2 program document enclosed.

Exclusions

Please see the specific language in Section IV A of the VA Risk 2 program document enclosed.

Definitions

Please see the specific language in Section V of the VA Risk 2 program document enclosed.

Other Coverage

Please see the specific language in Section VI D of the VA Risk 2 program document enclosed.

BASIS FOR D&O SUITS

There seems to be no limit to the imagination of the legal mind. Among the growing list of allegations have been:

- Misstatement of financial conditions
- General conflict of interest
- Failure to act
- Failure to disclose
- Lack of good judgment, diligence or good faith
- Mismanagement of funds
- Unauthorized or imprudent loans or investments
- Denial of civil rights
- Illegal payment to public officials
- Imprudent acquisition resulting in loss
- Use of inside information for personal gain
- Exceeding authority of charter or law
- Inefficient administration

VIRGINIA'S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY

COMMERCIAL GENERAL LIABILITY

POLICY NUMBER	CARRIER/BROKER	TERM	ANNUAL PREMIUM
Q262500486	Erie/Wyatt Insurance	2/25/09-10	$1450

Liability Risk Covered	Limits of Liability	
Policy	Incl. in Gen. Agg.	Products/Completed Operations Aggregate
Aggregates	$2,000,000	General Aggregate
Products/ Completed Operations	$1,000,000	Any one occurrence subject to Products/Completed Operations Aggregate
Premises Operations	$1,000,000	Any one occurrence subject to General Aggregate
Personal Injury Advertising	$1,000,000	Any one person or organization subject to General Aggregate limit
Medical Expense	$5,000	Any one person subject to the Occurrence and General Aggregate Limit
Fire Damage	$1,000,000	Any one fire subject to the Occurrence and General Aggregate Limit

COMMERCIAL GENERAL LIABILITY

COVERAGE SUMMARY

VIRGINIA'S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY commercial general liability insurance coverage is written on an occurrence basis, and is underwritten by Erie Insurance. The insurance carrier has provided the above limits of coverage based on the "vacant land" risk classification. We are hopeful Erie will not deny claims arising from the VFRIFA's rental dwelling, real estate development and maintenance operations.

COMMENTS & RECOMMENDATIONS

Limits/Aggregates

The policy provides the following principal limits of liability:

$1,000,000 each occurrence subject to $2,000,000 total limit available in the aggregate annually. A separate $2,000,000 aggregate limit applies to products liability.

Classification of Operations

The policy classification of operations, "vacant land" is incorrect; we would prefer that the policy be endorsed to show the classifications of all operations.

Premises Medical Payments

Currently, a $5,000 per person limit is afforded for premises medical payments. This is basically no-fault insurance and relatively inexpensive. Medical expenses must be reported to the insurer within 12 months of the accident to receive reimbursement.

Pollution Exclusion

The current policy contains a standard pollution exclusion. However, if the potential for loss exists, there are viable markets for this coverage. We would suggest VIRGINIA'S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY thoroughly analyze the Phase 1 surveys for these exposures and seek the appropriate insurance.

Insurance Agreements/Indemnity Provisions -- Vendors, Lessors, Repair Contractors, etc.

Certain insurance coverage should be required of all outside vendors, lessors, lessees, repair and maintenance contractors, etc. All such parties should be required to purchase general liability, workers' compensation/employers' liability, automobile liability (if an exposure exists), and possibly, umbrella, if the nature of the exposure so indicates. The amount of insurance required would be dictated by the nature of the contract. Contracts can generally be classified as:

Class 1 - "Major Contracts" includes the following:

A contractor involved in lump-sum, design and construct or alteration projects, or

A contractor using flammable techniques or materials (e.g., welding) or working in immediate proximity to flammable or explosive processes, including welders, electricians, plumbers, pipe fitters using welding, soldering or furnaces, roofers using tar furnaces, rigging contractors using heavy equipment such as cranes or maritime-related projects or

Suppliers of waste or rubbish collection of medical-related disposal services.

Class 2 - "Minor Contracts" includes the following:

Contracts or service supply contracts not defined as major contracts. Examples in this class include landscaping, machinery or equipment maintenance, cleaning, painting, window washing, nonmedical rubbish collection, laundries, janitors, guard service, temporary help agencies; or

Suppliers of products or services such as paper products, stationary, office supplies, equipment and furniture.

Class 3 - "Suppliers" includes the following:

Suppliers of chemicals, drugs, fuel oils, gasoline, bottled gas, other volatile or hazardous materials, medicines or medical equipment whether permanent in nature or disposable.

Minimum insurance limit requirements for Class 2 and 3 Contracts are generally:

Workers' Compensation	Statutory Limits
Employers' Liability	$500,000
General Liability	$1,000,000
Automobile Liability	$1,000,000

Class 1 Contracts usually require additional general liability ranging from $1,000,000 to $25,000,000.

VIRGINIA'S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY should require certificates of insurance from all vendors, contractors, etc. A suspense file should be set-up to maintain certificates. The contracts should contain hold harmless/indemnification wording in VIRGINIA'S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY favor and leases should contain mutual waiver of subrogation wording.

VIRGINIA'S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY should be named as additional insured's on vendors/contractors policy whenever possible. The insurance carrier should be notified when your company is named as additional insured under another's policy so the policy can function as excess.

The scope and future of the construction operations should be reviewed with the broker and insurer to prevent difficulties if a large loss occurs.

PROPERTY DIRECT DAMAGE

POLICY NUMBER	CARRIER/BROKER	TERM	ANNUAL PREMIUM
Q130300861	Erie/Wyatt Insurance	1/3/10-11	$1348
Q130300860	Erie/Wyatt Insurance	1/3/10-11	$554

RISK COVERED	LIMIT OF INSURANCE	CO-INSURANCE	DEDUCTIBLE APPLICABLE
Real Property-Mebane House (unoccupied)	$516,000	80%	$500
Real Property-Mobile Home (rental)	$55,000	80%	$500
Flood	No Coverage		
Earthquake	No Coverage		
Outside Signs	No Coverage		

PROPERTY DAMAGE

COVERAGE SUMMARY

Property damage insurance covers losses from direct damage to real property specified in the policy. It does not provide coverage for the loss of income directly resulting from a covered property loss to rental property. All coverage is subject to the terms and conditions of the policy with a few notable items outlined in the following section of this report.

COMMENTS & RECOMMENDATIONS

Coverage

We note that coverage is written on a named peril basis and not the preferred "all risk" basis. The named peril form of coverage limits the causes of loss that are insured by this policy which "all risk" places the burden upon the insurance carrier to cite a policy exclusion, rather than VIRGINIA'S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY attempting to prove that a loss is indeed covered. Under all risk coverage, unless the carrier can cite a specific exclusion, then the loss is covered. We suggest that VIRGINIA'S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY obtain this coverage is possible all property.

Loss of Income

This coverage is not provided. We recommend surveying the potential income exposure to measure the need for insurance.

Flood and Earthquake

Flood and earthquake coverage are not provided. We would suggest obtaining a coverage proposal if any exposure exists.

No Flood Coverage - Flood Zones

It should be noted that no flood coverage is provided in Flood Plain (Zone A, B or V) and coverage should be purchased from the National Flood Program.

SECTION V
OTHER COVERAGES TO CONSIDER

OTHER COVERAGES TO BE CONSIDERED

Our survey has revealed several exposures for which appropriate insurance coverage is not currently purchased based upon our review of policies shown in the Schedule of Policies Reviewed (Section II of this Report):

Exposure: Claims arising from pollution damage to third parties and required clean up costs;
Insurance Treatment: Pollution Legal Liability with on and off site clean up cost coverage;

Exposure: Liability claims disputes between the VA Risk 2 program and Erie Insurance;

Insurance Treatment: Purchase insurance from one insurer that includes general liability, non-owned auto, umbrella limits and Public Officials liability coverage;

Exposure: Large multi-claimant bodily injury or property damage or personal injury lawsuits;

Insurance Treatment Umbrella Liability Policy;

SECTION VI

INSURANCE COMPANY ANALYSIS

VIRGINIA'S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY

INSURANCE COMPANY REVIEW

The following are the insurance companies currently providing coverage to VIRGINIA'S FIRST REGIONAL INDUSTRIAL FACILITY AUTHORITY with their respective A.M. Best ratings and financial size category:

Company	Best Rating	Financial Size
Erie Insurance	A+	FSC XV
VA Risk 2	Not an insurance company	N/A

The A.M. Best Company was established in 1899 and its ratings are the most comprehensive source of financial information on property and casualty insurance companies currently available to us for reviewing the stability of insurance carriers.

The financial size is based upon reported policyholders' surplus plus conditional or technical reserve funds, e.g., mandatory securities valuation reserves, other investment and operating contingency funds, and/or miscellaneous voluntary reserves reported as liabilities. Financial categories range from Class I (adjusted policyholders' surplus up to $1,000,000) to Class XV (adjusted policyholders' surplus, $2,000,000,000 or greater).

There is a several month lag time on Best Reports. The 2009 Best ratings manual provides 2008 results. Interim reports are available on downgraded carriers.

We do not have a concern with the long term financial stability of Erie Insurance. As the VA Risk 2 program is not an insurer and does not reinsure their loss potential, if the state of Virginia's financial condition comes into question, we will have concerns with the long term financial solvency of this program.