

**Directors & Officers (D&O)  
Public Official's Liability  
Overview for  
San Francisco Municipal Transportation Agency**

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## **AGENDA**

- **Introduction: Why consider D&O insurance?**
- **What does it cover?**
- **What other Boards or Commissions in the City have this coverage?**
- **What are notable Enhancements or Exclusions?**
- **What policy limits can be expected and what do they cost?**
- **Wrap-up and Questions**

## DEFINITIONS

- **Directors and Officers Insurance (D&O)** is liability insurance payable to the directors and officers of SFMTA, or to SFMTA itself, to cover damages or defense costs in the event they suffer such losses as a result of a lawsuit for alleged wrongful acts while acting in their capacity as directors and officers for SFMTA.
- **Public Officials Liability Insurance (POL)** is liability coverage for the errors and omissions of public officials.

## Other City Agencies, Boards & Commissions with POL/D&O

- Port of SF - Public Officials Liability Policy:
  - \$5,000,000 Limit with a \$50,000 Retention
- Finance Corporation - Directors & Officers Liability Policy:
  - \$10,000,000 Limit with a \$100,000
- TIDA - Directors & Officers Liability Policy:
  - \$5,000,000 Limit with \$50,000 Retention
- SFO – Public Officials Liability Policy:
  - \$5,000,000 Limit with a \$100,000 Retention
- SFPUC – Public Officials Liability Policy:
  - \$15,000,000 Limit with a \$150,000

## Notable Enhancements

### Special endorsements we expect to negotiate for SFMTA:

- **Eliminated the Bond Exclusion Endorsement**

D&O policies typically contain a standard exclusion for claims that are the result liability stated as “alleging, based upon, arising out of or attributable to the failure to pay any bond interest on any bond, any debt, financial guarantee or debenture”.

- **Include Reimbursement of City Attorney Fees**

The policy is endorsed to allow Choice of Counsel and the negotiated City Attorney fees shall be reimbursed by the carrier.

- **Definition of Loss includes punitive, exemplary and multiplied damages with venue language.**

This enhancement of coverage provides a much broader Definition of Loss so that SFMTA has coverage for punitive, exemplary and multiplied damages which typically are not included nor covered by a D&O policy.

## NOTABLE EXCLUSIONS:

- 1) “Based upon, arising out of or attributable to the gaining by any insured of any profit or advantage to which such Insured was not legally entitled; provided this Exclusion shall not apply unless a judgment or other final adjudication adverse to such Insured establishes that the Insured gained such profit or advantage.”
- 2) “ ...to any criminal, malicious, fraudulent, knowingly wrongful or dishonest act or omission of any insured; provided this exclusion shall not apply unless a judgment or other final adjudication adverse to the Insured establishes such acts or omissions.” *(in pertinent part)*
- 3) Insured vs Insured exclusion for (non-executive claims)  
This exclusion disallows coverage for claims by the SFMTA against its own Directors and is a standard exclusion to all D&O policies.
- 4) Breach of contract exclusion does not apply to claims against insured persons. Breach of contract is not a covered event on insurance policies, however we expect the policy would provide coverage to the Directors but not to the entity (SFMTA).

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## **D&O/POL INSURANCE LIMITS & INDICATED PREMIUM RANGE**

<b>Limit</b>	<b>Retention</b>	<b>Premium</b>
\$15,000,000	\$150,000	\$140,000 - 180,000
\$10,000,000	\$150,000	\$115,000 – 125,000

The background of the slide is a photograph of the Golden Gate Bridge in San Francisco, viewed from a high angle looking down the length of the bridge towards the water. The bridge's iconic orange-red color is prominent against the blue sky and water.

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**NEXT STEPS:**

- **Hear Feedback from MTA Board**
- **MTA Staff Recommendation**