



# **Your Insurance Agent or Broker**

Managing the Relationship and Getting the Help You Need

*A Risk Management Web Seminar*

**November 8, 2006**

**Presented by:**

**Melanie L. Herman**

Executive Director

Nonprofit Risk Management Center

1130 17<sup>th</sup> Street, NW - Suite 210

Washington, DC 20036

(202) 785-3891; (202) 296-0349

**[www.nonprofitrisk.org](http://www.nonprofitrisk.org)**

e-mail: **[Melanie@nonprofitrisk.org](mailto:Melanie@nonprofitrisk.org)**

Generous funding to support this program was provided by the  
Public Entity Risk Institute. For more information on PERI, visit [www.riskinstitute.org](http://www.riskinstitute.org).

## What is an insurance agent? What is a broker?

Every nonprofit organization needs a trusted insurance advisor—an agent or broker—to advise it about insurance-related matters. With respect to the distinction between agents and brokers, brokers are typically licensed by a state to place insurance on behalf of clients (individuals and organizations) with any number of companies (insurers). Agents are also licensed by state regulatory agencies; however, they are restricted in the marketing and placement of coverage to those carriers with whom they have a contractual relationship. Some agents have relationships with a number of companies, while others represent a single insurer. A broker technically represents the client, while an agent represents the company or companies with whom he has a relationship. In either case, brokers and agents serve two masters: They are motivated to please their customers, and they are motivated to maintain good working relationships with the insurance markets with which they place business.

Insurance agents and brokers typically receive their compensation in the form of a commission from the insurance companies that *underwrite* a client's insurance policies. The commission rate varies by *line of business* and the size of the account. According to a recent *Cost of Risk Survey* published by the Risk and Insurance Management Society (RIMS) and Tillinghast-Towers Perrin, typical commission rates on property coverage are in the 10-15 percent range, general liability and auto commissions average 8-12 percent (note: for smaller insureds 15 percent commission for general liability and auto is common), workers' compensation commissions average 8-10 percent, and commissions on bonds average 20-30 percent.

This fee structure means that the dollar value of the commission an insurance professional earns from a small account may be minimal (\$150 commission on a D&O premium of \$1,000). As a result, it may be economically impossible for an insurance professional to provide the level of service to small accounts that he or she is in a position to offer to larger accounts. Ironically, smaller accounts—for example, small to midsized nonprofits—may require greater assistance understanding basic policy concepts and terms, particularly if the organization is purchasing insurance coverage for the first time, but once up and running requires less assistance and involves less frequent contact with an advisor than larger, more complex insurance programs.

## Insurance Professional (Agent, Broker or Consultant) Services/Responsibilities

*The following list indicates some of the services an insurance professional might provide to a nonprofit client. Every nonprofit must decide which services it requires or views as desirable.*

- Provide complete and accurate information to insurance carrier on behalf of the insured. This includes signed applications and updated information at renewal.
- Remit down payments and balance payments to insurance carrier in a timely fashion.
- Arrange financing if requested by insured member.
- Help insured with compliance with safety recommendations.
- Complete *Certificates of Insurance* and request *Additional Insured* endorsements as required by funding sources, landlords, etc.
- Review all contracts for the insured in respect to insurance requirements. Forward unusual contractual obligations to insurance carrier for review and comment.
- Be available to answer questions regarding the insurance contract.
- Report claims and coordinate claim adjusting with insurance carrier.
- Be available to participate in the insured's risk management committee, if requested.
- Be available to attend at least one of the insured's board meetings per year, if requested.
- Present an appropriate insurance package to the insured for its review and decision.
- Serve as a source of information for his/her clients in regards to insurance questions.
- Maintain a complete insurance file for the insured nonprofit. (As the insured, you should keep a copy as well.)
- Maintain continuing education and proper licensing status at all times.

## Evaluating Your Current Provider

To make the most of a relationship with an agent or broker (or multiple agents or brokers), you must first determine your expectations for that agent or broker. Unfortunately, many nonprofit leaders sell their organizations short, and accept less than professional service because they believe that the size of their accounts don't warrant quality service. Whether you're paying \$1 million or \$1,000 annually for insurance, the mission of your nonprofit is too important for you to accept poor service.

What qualities or characteristics are important to you? For many nonprofits, the following areas are important:

- Responsiveness*—Does your agent or broker return calls in a timely fashion? Does he or she follow up on other matters as requested and without repeated reminders?

- ❑ *Timeliness*—Are renewal quotations provided in sufficient time or at the last minute? Are requests for certificates of insurance, additional insured endorsements and actual policies delivered in a timely fashion?
- ❑ *Credibility*—Is your agent or broker a credible professional advisor who appears to be knowledgeable about and well connected within the insurance industry? Is the broker someone you would confidently schedule to deliver a briefing to the risk management committee or board, or someone you would rather these leadership groups never meet?
- ❑ *Commitment*—Has your agent or broker been willing to take the time required to understand the nonprofit’s operations and risks? Or does he or she often refer to the organization in a way that suggests little knowledge about your services and clients?
- ❑ *Claims Handling*—If your nonprofit has filed one or more claims under any of the policies purchased with the agent or broker, was the agent or broker helpful in handling the claim? If expected to manage claims, did the agent or broker deliver as expected?
- ❑ *Accuracy*—Is the information you receive from your agent or broker accurate? Have policies been thoroughly checked and corrected? Are vehicle numbers correct?
- ❑ *Result* —Did the broker obtain the coverage you requested? Did he or she obtain the number of bids required under your purchasing process? Are you satisfied with the breadth of coverage obtained by the broker? Are you confident that the pricing and terms of your coverage are competitive?

One way to approach the evaluation is to first determine which of the criteria are important to your nonprofit. Then develop a scoring system that allows you to distinguish between *meets expectations* and *does not meet expectations*. For example, your system might allow up to 10 points for each of the seven criteria. A total score of 0-30 points might equal *does not meet expectations*. A score of 31-49 would indicate that the agent or broker *partially meets expectations*. A score of 50+ points would indicate that the agent or broker *meets expectations*.

*expectations*. Ranking all of the listed criteria would lead to a maximum possible score of 70 points. How does your current agent or broker stack up against perfection?

## **Tips on Working With Your Insurance Professional**

- Provide prompt, clear, concise answers to questions.
- Expect your quote in a timely manner.
- Ask questions and expect understandable answers.
- Give your broker at least 30 days' notice if possible regarding any and all policy changes.
- Get important answers in writing.
- Don't withhold information from your broker.
- Report claims to your broker immediately and be prepared to give detailed information regarding the claim.

## **Questions to Consider in Selecting an Insurance Professional**

- Ask other nonprofits in your area about their brokers.
- Ask prospective brokers about their experience with other nonprofits. Specifically, do they work with nonprofits that offer services similar to yours?
- Ask about commission and fee structure. Does the compensation fit their level of service?
- Is their office automated? Are you confident that they will make timely payment to the insurance carrier?
- Are they willing and able to arrange financing for you?
- Are they courteous and do they return phone calls promptly?
- Are they willing to work with a loss control representative?
- Do they have errors and omissions insurance?
- What assistance will they provide in completing various insurance applications?
- Are they willing to investigate new options for you?
- Are they familiar with the insurance options available to nonprofits?
- Are they willing to investigate the financial stability of insurance alternatives that may be available to you?

## **Conclusion**

Relationships take time to cultivate and effort to sustain. Every nonprofit needs a trusted insurance advisor who can assist the organization's leaders obtain appropriate coverage at an affordable cost. An effective insurance agent or broker can be a tremendous asset to your organization. But you must take the time to determine what you need and expect, and communicate those expectations clearly to your provider. As a dedicated steward of your

organization's resources, you owe it to your nonprofit to ensure that you are receiving skilled assistance you deserve and the breadth of coverage your agency requires.

Questions about any of the information presented in this handout may be directed to the workshop speaker, whose contact information appears on the first page of this document.

# SAMPLE

## Broker Services Agreement

This Agreement (“Agreement”) is made between [Name of Nonprofit] and [Name of Broker or Agency] and the parties agree as follows:

**Section 1. Term.** This Agreement shall be effective [beginning effective date] through [ending effective date, typically a one year term] unless sooner terminated pursuant to Section 14 below.

**Section 2. Scope of Services.** [Name of Broker or Agency] is hereby appointed as [Name of Nonprofit]’s insurance broker per the duties outlined in this agreement. [Name of Broker or Agency] will dedicate an estimated [number] hours annually for risk management and insurance services rendered. Each December of the Term, the parties will review services to be provided and update the agreement accordingly.

**Section 3. Personnel.** [Name of Broker or Agency] shall dedicate a team of employees to be assigned on a part-time basis to service [Name of Nonprofit]’s risk management and insurance program. [Name of Broker or Agency] shall be solely and exclusively responsible for hiring, supervising, and compensating the [Name of Broker or Agency] employees serving [Name of Nonprofit]. [Name of Broker or Agency] reserves the right to change team members during the course of the Agreement as it deems appropriate to meet the service expectations of [Name of Nonprofit]. [Name of Broker or Agency] will notify [Name of Nonprofit] of any changes in personnel assigned to this account within 48 hours of making personnel changes, or in advance, where feasible. Assure continuity of information when staff changes do occur, making certain that new staff at [Name of Broker or Agency] are fully briefed about the operations and history of [Name of Nonprofit].

**Section 4. Compensation.** [Name of Broker or Agency] will receive a maximum of \$ \_\_\_\_\_ as total annual compensation for services rendered for each year of this Agreement. Should any insurers on [Name of Nonprofit] account be unwilling to write coverage on a “net of commission” basis, the commission earned from those policies will be disclosed to [Name of Nonprofit] and shall be deducted from the fee that is due. [Name of Nonprofit] will pay the fee in four quarterly installments.

**Section 5. Independent Contractor.** The parties agree that [Name of Broker or Agency] and its employees are independent contractors and not agents or employees of [Name of Nonprofit]. Nothing herein is intended or shall be deemed to constitute [Name of Broker or Agency] and [Name of Nonprofit] as a joint venture or as partners.

**Section 6. Assignments Prohibited: Successors.** This Agreement is personal to [Name of Broker or Agency] and it shall not assign, sell, franchise, subcontract, or otherwise purport to transfer any of its rights or obligations under this Agreement to any third party without [Name of Nonprofit]’s express prior written consent. The sale of all or substantially all of [Name of Broker or Agency]’s assets, or its acquisition by or merger with another company, shall be deemed an assignment requiring [Name of Nonprofit]’s prior written consent, which may be granted or

withheld in [Name of Nonprofit]'s sole discretion. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties and their permitted assignees and successors in interest.

**Section 7. Exclusivity.** During the Term of this Agreement, [Name of Broker or Agency] shall be [Name of Nonprofit]'s exclusive insurance broker for property and casualty coverages as per the terms and conditions of this Agreement.

**Section 8. Duty to Preserve Confidentiality and Trade Secrets.** [Name of Broker or Agency] agrees to take all reasonable steps to assure that their respective personnel and agents maintain all confidential, non-public information of [Name of Nonprofit] as strictly confidential. [Name of Broker or Agency]'s obligations under this Section shall survive the termination of this Agreement.

**Section 9. Compliance with Laws.** Each party shall comply, at its own expense, with all applicable federal, state, and local laws and regulations that may govern that party or apply to its activities under this Agreement.

**Section 10. Indemnification**

[Name of Broker or Agency] shall defend, indemnify, and hold [Name of Nonprofit] harmless from and against all loss, liability, damage, cost, or expense, including reasonable attorney's fees and expenses and litigation costs and expenses, arising out of any suits, claims, or actions that may be brought or made against [Name of Nonprofit] by reason of the acts or omissions of [Name of Broker or Agency]'s respective employees or agents, but only where their services have not satisfied the standard of care in the insurance and/or risk management industries for providing the services under the terms of this Agreement.

[Name of Nonprofit] shall defend, indemnify and hold [Name of Broker or Agency] harmless from and against all loss, liability, damage, cost or expense, including reasonable attorney's fees and expenses and litigation costs and expenses, arising out of the negligent acts or omission of [Name of Nonprofit].

**Section 11. Insurance Requirements.** During the Term, [Name of Broker or Agency] shall maintain in force adequate errors and omissions insurance coverage for services provided under this Agreement with a coverage limit of not less than \$5 million (\$5,000,000) per occurrence and \$5 million (\$5,000,000) in the aggregate with an A.M. Best-rated company of A- (Excellent) or better.

**Section 12. Notices.** All communications between the parties required by this Agreement, including all approvals and requests for approval (collectively, "Notices") shall be in writing and shall be sent by facsimile, first-class mail, hand-delivery, or next-day courier service. Notices shall be addressed as follows (unless a party subsequently identifies a different addressee for receipt of its Notices):

Notices to [Name of Nonprofit]:

[Nonprofit's contact information here]

Notices to [Name of Broker or Agency]:

[Broker's contact information here]

**Section 13. Governing Law.** This Agreement shall be governed by the laws of the state of [State where nonprofit operates], both as to interpretation and performance, without regard to any otherwise applicable conflicts-of-laws principles. The parties also agree to be bound by, and subject themselves to, the personal jurisdiction of the courts of the state of [State where nonprofit operates] for purposes of any litigation between the parties concerning the interpretation or enforcement of this Agreement.

**Section 14. Early Termination.** [Name of Nonprofit] shall have the right to terminate this Agreement before its scheduled expiration in the event that [Name of Broker or Agency] does not meet [Name of Nonprofit]'s service standards as determined by [Name of Nonprofit]. [Name of Broker or Agency] agrees to cooperate to facilitate a smooth transition to new service providers. Any extraordinary or reasonably necessary expenses incurred by [Name of Broker or Agency] to effect a smooth transition will be the responsibility of [Name of Nonprofit].

**Section 15. Entire Agreement.** This Agreement constitutes the entire agreement between [Name of Broker or Agency] and [Name of Nonprofit], and supersedes all oral and written negotiations, representations, offers, proposals, commitments, contracts, and statements made prior to the execution of this Agreement. No modification of or amendment to the Agreement, whether in whole or in part, shall be effective unless that modification or amendment is in writing and signed by authorized representatives of both parties.

By their signatures below, [Name of Nonprofit] and [Name of Broker or Agency] hereby confirm, through a representative who each warrants to be authorized to act on its behalf, their respective acceptance of all of the provisions set forth in this Agreement.

**[NAME OF BROKER OR AGENCY]**

**[NAME OF NONPROFIT]**

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **Risk Management Services**

The mission of [Name of Nonprofit]'s risk management program is to protect the assets of the organization, which include its employees, volunteers, clients, property, revenue sources, reputation, and ability to carry out its mission. [Name of Broker or Agency] shall provide [Name of Nonprofit] with the risk management services described below. These services will be provided by members of the [Name of Broker or Agency] account team.

[Name of Broker or Agency] will:

- Act as a risk management advisor to [Name of Nonprofit] in a proactive relationship.
- Review [Name of Nonprofit]'s risk management program and make recommendations to address the requirements of the organization and changing environment.
- Conduct strategic planning sessions with [Name of Nonprofit] to identify risk management priorities and establish future strategies and objectives for its risk and insurance programs.
- Plan and participate in periodic meetings with the express purpose of discussing new activities and initiatives and related risks.
- Engage in ongoing discussion with [Name of Nonprofit] staff on new programs or operations.
- Converse with the relevant staff concerning new activities and initiatives within [Name of Nonprofit].
- Review risk management and insurance industry current events to identify new exposures and trends that may affect [Name of Nonprofit].
- Conduct claims and incident analyses to identify new risks or monitor risks that may be of growing concern to [Name of Nonprofit].
- Work with policy-service personnel on certificate or contract issues that identify risk management concerns.
- Cooperate and assist/support any third-party risk management providers engaged by [Name of Nonprofit].
- Assist in determining the appropriate risk management methods for risks that have been identified.
- Demonstrate to underwriters the strengths of [Name of Nonprofit]'s risk management program and advocate on behalf of [Name of Nonprofit] with any underwriters.

## **Insurance Services**

[Name of Nonprofit]'s insurability and insurance program are essential to the organization's ability to carry out its mission. [Name of Broker or Agency] is responsible for the successful management of [Name of Nonprofit]'s insurance programs with emphasis on securing appropriately high quality coverage at the best available cost supported by the highest level of professional service.

[Name of Broker or Agency] will:

- Act as [Name of Nonprofit]'s exclusive insurance broker for property and casualty coverages.
- Assist [Name of Nonprofit] in identifying the types, terms, and amounts of insurance coverage to be maintained by [Name of Nonprofit].

- ❑ Assure proactive, open and thorough communications and service and transparency in all aspects of this relationship.
- ❑ Assist [Name of Nonprofit] staff in completing coverage applications to include an initial “get to know what [Name of Nonprofit] does” series of meetings. This is envisioned as a one day visit/interview with specific staff to ensure that there are no errors or omissions on the applications and that a review of the applications by the broker team is done with insider knowledge of [Name of Nonprofit]’s operations.
- ❑ Initial and ongoing contract reviews that are entered into with [Name of Nonprofit] and its various government and private funding sources.
- ❑ Meet with [Name of Nonprofit] staff to discuss the insurance implications of new projects and initiatives.
- ❑ Conduct joint planning sessions with [Name of Nonprofit] staff to review performance and establish future objectives for the insurance, including an annual timeline for delivery of services.
- ❑ Work with [Name of Nonprofit] to develop annual renewal strategies, manage incumbent insurer relationships, and market coverages to qualified insurers that meet [Name of Nonprofit]’s financial integrity criteria. This will include conducting an annual pre-renewal review of [Name of Nonprofit]’s insurance program at least 10 weeks prior to the renewal date.
- ❑ [Name of Broker or Agency] will recommend insurance specifications to be approved by [Name of Nonprofit], identify qualified insurers, oversee the marketing process, negotiate coverage terms, conditions, and pricing with insurers on behalf of [Name of Nonprofit] including maintaining any unique or difficult coverage, and act as [Name of Nonprofit]’s liaison to insurance companies for items related to coverage interpretation or clarification.
- ❑ Monitor financial status of [Name of Nonprofit] insurers using industry analysts such as A.M. Best.
- ❑ Provide [Name of Nonprofit] with information on relevant trends and risk issues that may impact [Name of Nonprofit]’s insurability and/or insurance program including trends within the nonprofit [your segment of the nonprofit sector, e.g. child welfare] and significant developments in the insurance market.
- ❑ Provide professional advice on alternatives to traditional insurance as appropriate.
- ❑ Bind coverage with insurers as authorized by [Name of Nonprofit] and oversee the placement and timely, accurate issuance of all binders, policies, and endorsements.
- ❑ Provide or oversee insurer claims functions including reporting, adjusting, negotiating, and providing professional advice. [Name of Broker or Agency] will work with insurers to involve [Name of Nonprofit] in the claims process and will monitor insurer performance relative to claims adjusting and settlement.
- ❑ Provide detailed claims information on a periodic basis including monthly open claims narrative, and periodic claims reports and analysis (including uninsured losses if applicable).
- ❑ Meet with [Name of Nonprofit] personnel on a quarterly basis to review status of insurance program, losses, and emerging trends and provide an annual Stewardship Report at the end of each year.
- ❑ Process requests certificates of insurance, endorsements, and policy change requests in a timely and accurate fashion.
- ❑ Preparing insurance data for [Name of Nonprofit]’s financial audits or other needs as requested by [Name of Nonprofit].

- Provide copies of policies to [Name of Nonprofit] after broker review in a timely manner.
- Assist [Name of Nonprofit] in thoroughly understanding [Name of Nonprofit]'s responsibilities and duties to the broker and the carrier once policies are bound.