Nonprofit Risk Management Center
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Risk Management ESSENTIALS

Tips, Knowledge and Tools for Nonprofit Organizations

Risk Summit 2025: Building Bridges

The 2025 Risk Summit showcases innovation in risk management in the nonprofit sector.

The conference takes place at the Hyatt Regency Reston in Reston, Virginia, October 27 and 28.

The conference brings together nonprofit leaders and industry professionals who support nonprofit missions. The Risk Summit features educational sessions, in-person networking opportunities, and evening social events to build and develop relationships with like-minded sector professionals.

Visit nonprofitrisk.org/events/2025-risk-summit/ to learn more and register.

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THE INSURANCE ISSUE

Facing the Challenges of a Changing Insurance Marketplace

By Elyzabeth Joy Holford

While building an appropriate nonprofit insurance portfolio always takes care and focus, some nonprofits are finding that obtaining coverage can be especially difficult these days. Amid a challenging market, this article aims to give you a refresher on key insurance pointers and provide some context on how to navigate specific challenges you may face in today's market.

We'll provide background information on the insurance industry starting with definitions of a few key terms and an explanation of market conditions, followed by discussions of some of the causes of those market conditions. We'll highlight some current insurance challenges nonprofits face with tips for addressing them where possible. The article ends with a few things to remember when you shop for insurance for your organization. To keep the focus manageable, this article does not address health insurance challenges, nor does it tackle the issues associated with alternative risk financing like captive insurance companies or mutual insurance companies.

Definitions: Types of Insurance

Insurance that covers liability exposures common to all organizations is known as *Commercial General Liability* (GL) insurance.

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> "GL insurance helps avert the financial risks associated with claims alleging bodily injury or property damage related to an organization's operations."

This type of insurance is a combination platter of several kinds of coverage: general liability, personal injury and advertising liability, and medical payments. GL insurance helps avert the financial risks associated with claims alleging bodily injury or property damage related to an organization's operations. The coverage is for typical occurrences—simple accidents with unintended injuries such as those from slips and falls. It can also provide coverage for other areas of risk involving:

- libel and slander: claims of defaming a person or business,
- invasion of privacy: claims of violating a person's right to privacy,
- copyright infringement: claims of infringing on another company's intellectual property,
- idea theft: claims of stealing another company's ideas,
- false advertising: allegations of making false claims about a product or service, and
- trademark infringement: claims of infringing on another organization's trademark.

Areas of coverage typically excluded from GL include:

- intentional injury such as assault and battery,
- liability assumed by contract such as your nonprofit assuming the tort liability of another party,
- employee harm such as bodily injury or disease suffered by your employees in the course of employment, and
- liquor liability, such as incidents that occur due to your organization furnishing or serving alcoholic beverages.

Directors & Officers (D&O) liability insurance coverage responds to allegations of wrongful management decisions. These may include actual or alleged errors, omissions, misleading statements, and neglect or breach of duty. Nonprofit D&O policies often include *Employment Practices Liability Insurance* (EPLI), which responds to claims alleging wrongful employment actions. EPLI typically covers the monetary amounts of settlements and court judgments awarded to employees in successful employment lawsuits. Some common examples of covered claims are:

- failure to hire or promote based on legally protected classes,
- discrimination in the workplace based on age, race, gender, and other protected categories,
- retaliation against employees who report workplace violations,
- harassment based on legally protected characteristics, or
- wrongful termination claims in which the employee alleges they were unfairly fired.

Some common examples of claims that EPLI typically does not cover are:

- physical injuries or property damage,
- contractual liability such as breach of contract,
- prior or pending claims that existed or were pending before the policy was

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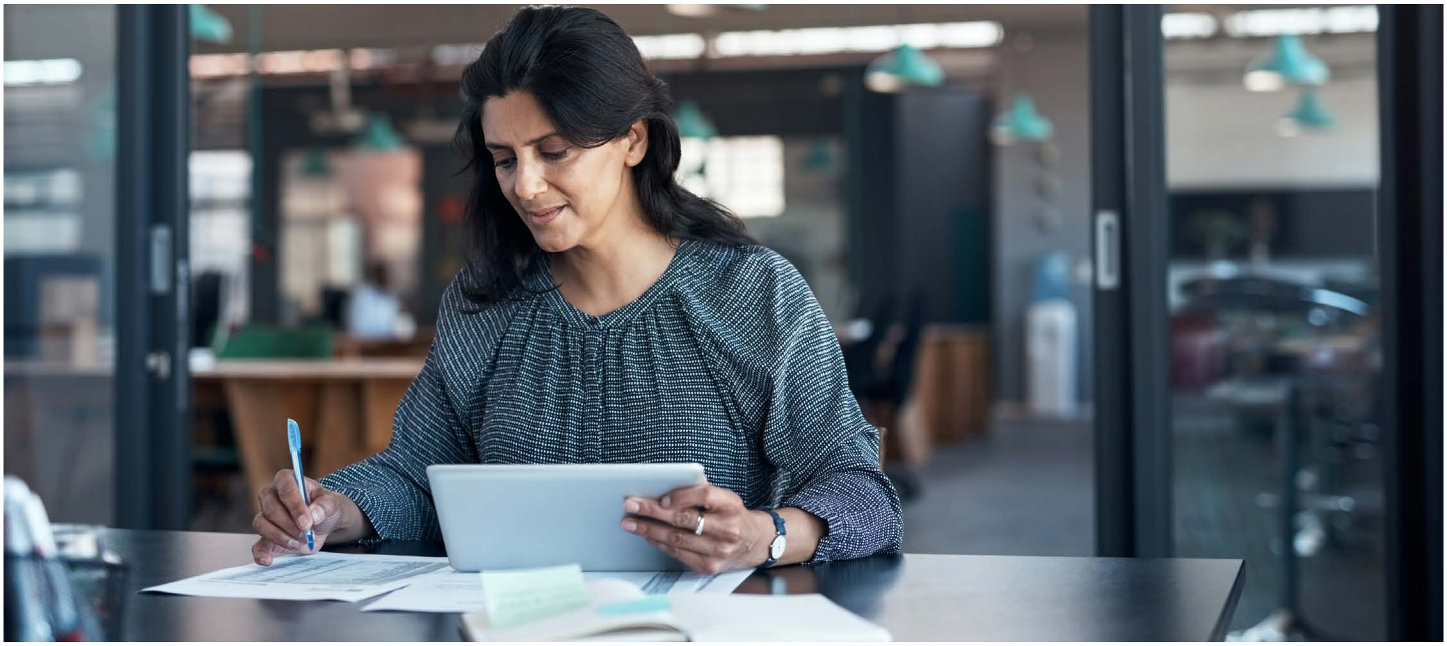

> "A hard market in the insurance industry refers to a period characterized by higher premiums, stricter underwriting standards, and reduced availability of insurance coverage."

purchased or of which the organization had prior knowledge, and

- criminal acts.

Umbrella Liability insurance is designed as a secondary layer of liability coverage to augment existing policies. An umbrella policy can cover claims such as:

- Legal costs incurred in defending your nonprofit in a lawsuit related to claims of bodily injury, property damage, or other covered liabilities,
- Medical bills: if your nonprofit is found liable for injuries to others and the medical expenses exceed your core liability limits,
- Damage to others' property if your nonprofit is found liable for this and the damages exceed your core liability limits,
- Judgments and settlements where the damages exceed the limits of your underlying liability policies.

Things an umbrella policy does not cover include:

- professional liability claims,
- business property damage or lost revenue claims for damage to your business property or lost revenue due to business interruption, or
- costs that are above the total aggregate limit of your policies.

Definitions: Insurance Market Conditions

The insurance landscape fluctuates between what industry professionals refer to as "soft" and "hard" markets. A hard market in the insurance industry refers to a period characterized by higher premiums, stricter underwriting standards, and reduced availability of insurance coverage. This typically occurs when insurers have experienced significant losses and rising costs, leading to reduced capacity and increased caution in assessing risk. During a hard market, insurers may limit the types of risks (organizations) they insure and the coverage terms and limits they offer, resulting in fewer choices and higher costs for customers.

A soft market is marked by lower insurance premiums, more lenient underwriting criteria, and increased competition among insurers. This environment often emerges when the industry experiences fewer claims and accumulates substantial capital, leading to new carriers or specialty programs actively competing for accounts with more established insurers. As a result, customers can find more favorable insurance terms, broader coverage options, and reduced

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costs. A soft market benefits insurance buyers with easier access to coverage and competitive pricing.

Hard Market: Causes

One factor that can contribute to a hard market is *financial inflation*. When the average price of goods and services goes up, so does the cost of insurance. Inflation usually creates the situation of buyers paying more, but in some cases receiving less.

Another cause of hardening markets is known as *social inflation*. Social inflation refers to a variety of societal trends such as legal shifts and changing public perceptions, rather than just the financial inflation of prices and wages. Social inflation is influenced by things like increased litigation, changing jury sentiments, and changes in laws—such as tort reform or the abolition of limits (known as "caps") on the monetary damages that can be awarded in certain types of cases. Each of these components or a mixture of them can result in what are known as "nuclear verdicts". A *nuclear verdict* refers to a jury award of extremely high value, often in a civil case for personal injury, wrongful death, or other physical or emotional harm. Essentially, this is a phenomenon where higher payouts on insurance claims lead to rising insurance costs at rates that go beyond typical financial inflation.

Natural disasters also play a role in social inflation and can cause insurance costs to rise dramatically. In 2024, there were 27 confirmed U.S. billion-dollar weather and climate disaster events. The total cost from these 27 events in 2024 was $182.7 billion. In 2025, one catastrophe—the wildfires in Southern California—is estimated to have caused between $135 billion and $250 billion in damages. This makes it one of the costliest natural disasters in U.S. history. Despite some rate relief for many clients this year, the cost of property coverage for perils such as fire, wind, flooding, tornadoes, hurricanes and other natural disasters will likely increase in the years to come.

Current Challenges: The Application

Your application is the beginning of the underwriting process. The forms are long and request a great deal of information. It is a detailed process that can feel arduous to finish. A few tips for answering the questions:

- Make sure you give your insurance applications the time they require.
- Answer all questions completely and truthfully.
- If you need help, ask for help.
- Never guess or leave questions blank.

These tips are important because your application will be attached to and become a part of your insurance policy. A material misstatement in the application has consequences. If a claim results from an activity or function you never disclosed or provided incorrect information about, coverage will likely be denied.

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Current Challenges: Underwriting

Underwriting refers to the process of evaluating the risk of insuring your nonprofit. It involves an underwriter or underwriters reviewing information you've submitted in your application as well as researching and reviewing your website, social media presence, media coverage, partnerships or other affiliated organizational relationships, information on sites that review nonprofits such as www.guidestar.org or www.causeIQ.com. Underwriting teams often use AI-enabled data analytics tools to automate and enhance their data analysis capacity. They will look closely at your organization's activities. For instance, they will likely request specific information about your internal approach and commitment to risk management and loss control. The most important advice in responding to any inquiries during the underwriting process is to make sure the information you provide is candid, consistent, and complete.

Current Challenges: Natural Disasters

Due to the increasing cost and incidence of natural disasters described above, real estate located in areas known to be hurricane alleys, flood zones, fault-line areas, waterfront property, or fire-prone areas will likely experience markedly higher insurance rates than real estate in other locations. This accentuates the need for both short-term planning for emergency displacement situations and long-term planning that includes examination of your real property commitments (rent or own) and a detailed, practical assessment of the importance of your current location and the feasibility of alternatives.

Current Challenges: Specific Activities

In addition to the difficulty in obtaining affordable coverage of physical spaces, some nonprofits are experiencing challenges that involve the very activities that allow them to fulfill their missions. This includes organizations with activities that are child serving (in general), day care (adult or child serving), shelters for unhoused people, affordable housing and social or climate justice advocacy. Not only are prices for coverage rising, but more limits and exclusions on coverage are arising. All of this makes it harder to appropriately cover exposures. The cost of sexual assault and molestation (SAM) coverage is high and still rising. At the same time, cybersecurity coverage rates have stabilized after years of upheaval.

The volatility of these market conditions emphasizes the importance of being prepared to provide potential insurers with information that documents your commitment to risk mitigation, such as thoughtful staff and volunteer recruitment and training processes. In addition, if you are an advocacy organization, take time to carefully assess not only the physical risks associated with your activities, but also the potential for legal challenges with longer term ramifications for your internal and external constituents.

Things to Know

As you work through the process of meeting your insurance needs, remember you are not alone. As noted elsewhere in this issue of *Risk Management Essentials*, we recommend you maximize your relationship with your insurance professional (your insurance agent or broker). Talk with your peers. Read your policies; know what you are buying. If you have questions, ask them. If you are asked for information, provide clear and thorough answers.

It is unlikely that the cost of insuring your organization will decline. Working with your insurance professional, include those cost projections in your forecasts. Depending on the nature of your mission and activities, be willing to take a hard look at current programs to determine if community impact warrants the increased insurance costs. Consider altering or even sunsetting programs if needed.

Facing these challenges in the insurance market is not easy, but it provides nonprofits the opportunity to engage these issues with care, focus, and a strong sense of shared community.

Elyzabeth Joy Holford is Assistant Executive Director at the Nonprofit Risk Management Center. Reach her with thoughts and questions about nonprofit insurance challenges at (703) 777-3504 or elyzabeth@nonprofitrisk.org.

RESOURCES:

https://nonprofitrisk.org/resources/glossary-of-risk-management-and-insurance-terms/

https://nonprofitrisk.org/resources/contemplating-coverage-insurance-for-nonprofits/

https://nonprofitrisk.org/resources/liability-and-the-board-what-governing-teams-need-to-know/

https://www.ncei.noaa.gov/access/billions/time-series

Maximize the Relationship with Your Insurance Advisor

By Melanie Lockwood Herman

Single people often turn to dating apps to look for prospective partners who meet their very specific wants in a long-term 'plus one.' Friends and family members who have opted for this route to companionship tell me that would-be dates sometimes:

- Exaggerate skillsets and personal characteristics (athletic ability, career success, height), and
- Protest too much (e.g., being weary of a lack of commitment and ready for a long-term pairing).

There is no app to find the insurance advisor of your dreams. Doing so requires sleuthing, discernment, and—like any successful personal relationship—a commitment to nurturing the connection once formed. And just like in romantic matches, nonprofit organizations may outgrow a long relationship with an insurance advisor, or the advisor may outgrow their relationship with you.

What is an Insurance Advisor?

An insurance advisor, or insurance professional, helps your nonprofit understand your insurable risks, weigh your appetite for various approaches to risk financing, and buy the insurance suited to your circumstances (wants, requirements, budget, etc.).

Unlike the personal insurance we buy to protect our homes, apartments and vehicles, which can often be purchased by going directly to a carrier for terms and pricing, commercial insurance—the coverage businesses buy—is sold through professional agents and brokers.

Your insurance professional should be a valued, trusted, go-to advisor on a wide array of risk and insurance topics. They should be determined to truly understand your nonprofit's mission, operations and plans, and be an active, 'all in' supporter when you're describing what you need.

When I asked Scott Konrad, HUB International's North American Nonprofit Practice Leader, what makes an insurance broker a trusted mission partner, he told me that "The indispensable partner immerses him/herself in the buyer's industry and specific organization to understand the big picture trends, challenges, and priorities, and then connects the dots to solutions. Sometimes the solutions come from the service provider's own toolbox, but sometimes they're from relationships with strategic

> "Your insurance professional should be a valued, trusted, go-to advisor on a wide array of risk and insurance topics."

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partners: CPAs, attorneys, bankers, and consultancies. It's about being a proactive 'fixer,' being continually accessible, and acting with a sense of urgency."

I asked a similar question to Lauren Erickson, Nonprofit Practice Leader at Relation Insurance Services. Lauren shared her view that the most valued and valuable insurance advisors bring strong connections and knowledge to a nonprofit mission. "The most valued insurance advisor to a nonprofit is someone who is *in touch* with the broader nonprofit sector (including issues that are important to your specific industry segment within the nonprofit sector), and who *understands* how things like the current administration and funding cuts could impact your operations." Lauren added that additional differentiating qualities include "being able to speak eloquently to your board about insurance, to provide training to your staff on a variety of risk management topics, to support your organization (attending your big events, volunteering), and to leverage connections with other nonprofit experts like lawyers and banks and fractional support; those things make an advisor invaluable."

Should We Stay or Should We Go?

Over the years, I've spoken to quite a few nonprofit risk professionals who have become frustrated with their insurance professional (agent or broker). It's always disheartening to hear about a nonprofit leader's hesitancy to disrupt the relationship, despite being let down, time and time again.

While it's unrealistic to expect that your insurance advisor will have answers to every conceivable coverage question off the bat, Lauren Erickson's view, which I share, is that the best advisor "might not know the answer at the time you call, but will find out, and actually get back to you!" Your mission can't afford an advisor who ghosts you, deflects your questions, or isn't resourceful.

Erickson told me insurance advisors who are poorly equipped to serve nonprofits often try to "understand the

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“Try to be patient and understanding when your advisor asks you for lots of information. The more they know, the better equipped they will be when insurance carriers ask them about your organization.”

nonprofit business simply by visiting the organization’s website.” She cautions that “It’s imperative to assume nothing. Let your nonprofit client tell you what they do, and more importantly what they don’t do, so you can help nip assumptions in the bud that may—and will—be made by the insurance companies who are considering whether to underwrite the account.”

When I asked Scott Konrad to share an example of the kinds of mistakes insurance professionals sometimes make, he replied, “Many fail to appreciate the ‘mission’ mindset and difference in priorities and temperament from for-profit counterparts. Nonprofits generally can’t pass along cost increases to their ‘customers’ (clients and funders) like for-profit enterprises, so insurance professionals must rigorously manage costs and consider providing philanthropic support that relieves financial stress.”

Bring Your Best to the Relationship: Be the Client Your Advisor Admires

Relationship experts often advise that singles looking for love understand their needs before trying to find a soulmate. Nonprofit leaders seeking the best possible advisor for their missions should also give some thought to what they are willing to commit in a business relationship with an insurance professional. NRMC recommends that you resolve to:

Be candid: An insurance professional can’t provide the guidance you need if you’re cagey about the top risks facing your nonprofit, or its ambitious plans to expand, contract, or shift gears. When your advisor finds out you were less than honest about any aspect of your organization, their trust in you will be shaken. Equally bad? An advisor with sketchy details about your nonprofit will not be able to confidently represent you and advocate on your behalf, an essential aspect of their role.

Be responsive: Return calls and emails promptly, even if that means sometimes saying, “I don’t know, but I will ask around and try to get you an answer!” Try to be patient and understanding when your advisor asks you for lots of information. The more they know, the better equipped they will be when insurance carriers ask them about your organization.

Be respectful: Your insurance advisor

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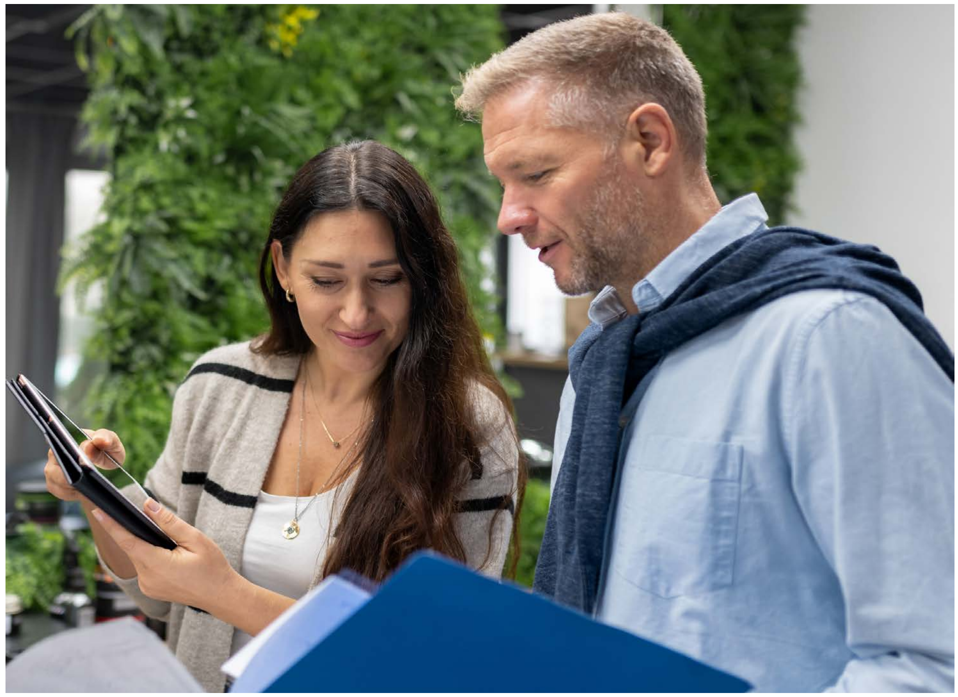
is not and therefore should not be treated as a fast-talking salesperson. Even if you aren't paying this advisor directly—because their commissions are paid by the carriers from whom you buy coverage—your nonprofit is in fact paying for the professional services and support they provide. Give your insurance professional the respect you *would* and *should* afford any retained advisor.

Be humble and stay in learning mode: If you don't know, say so! The stoic philosopher Epictetus said, "It is impossible for a person to begin to learn what he thinks he already knows." Approach every coverage renewal cycle as a bountiful learning opportunity. For example, each year the supplemental application for cyber insurance includes new questions, inspired by growing awareness of the tech scam industry. When you get to a question you can't readily answer, take the time to find out what it means by speaking with your insurance advisor or CIO. When you do that, you'll walk away from the renewal process with helpful new insights.

Be loyal: One of the most common complaints my team overhears when we're in the company of standout insurance advisors is that many nonprofit clients treat insurance buying as purely transactional. Worse, some believe "shopping" for new advisors, policies, and even carriers on an annual basis will lead to better terms and lower pricing. The better approach is to be honest about what you need, when you feel you've been let down, and give your agent or broker the opportunity to step up as you would any other business partner.

Your Insurance Professional Has Resources You Need

During the beginning days of a relationship with a new insurance advisor, they may share materials describing some of the services offered by their firm. It's not uncommon to be overwhelmed by those



offerings, which may include:

- Guidance on developing and articulating a high-level approach to insurance that syncs with the nonprofit's changing risk landscape, growth or change management strategies, risk appetite, and budgetary constraints
- Analysis of the nonprofit's risk profile, to include research or guidance in specific areas
- Data analytics, including benchmarking through ADVISEN or a similar service, review of insurance marketplace data and identification of leading carriers most likely to be interested in quoting the nonprofit's account
- Certificate of Insurance processes and systems (either in-house or outsourced)
- Claims management support, including claims guides and resource materials for specific coverages
- Contract and other materials review, such as the review of the nonprofit's safety and crisis management, staff training materials covering risk topics, or forms/templates that support the risk function
- Summary risk assessment or risk review
- Critical incident support, from preparation to training and post-incident guidance or after-action reviews
- Delivery of briefings to staff and governing teams
- Risk management and loss control services, such as standard or custom webinars, articles and factsheets, tabletop exercises focused on cyber threats or business continuity, and access to support and services from third parties, such as NRMC.

Here are NRMC's suggested steps to better understand and leverage add-on resources from your advisor and their team.

1. **During the early stages of a new relationship, especially when you're comparing prospective advisors,** ***request clarity on the supportive risk***

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"Schedule an annual meeting or conversation with your insurance advisor focused solely on risk resources."

***management and insurance services available to your nonprofit* if you choose the firm.** For example, make sure you ask:

- What services are included if we choose your firm?
- What services are available, but cost extra, and what do they cost?
- How would we access these services?
- Which of your services do other nonprofits use?
- Are there any valuable services nonprofit clients overlook?

2. **Schedule an annual meeting or conversation with your insurance advisor focused *solely* on risk resources.** This is a chance to refresh your memory about the services described at the outset of the relationship. Ask:
   - What risk and insurance resources, available from your firm, do you recommend for us this year?
   - What resources from external sources and providers do you recommend?
   - Which of these services are available to us at no additional charge? What is the cost for add-on services? How do we gain access?
   - What new services is your firm offering to clients like us?
   - What services, available from our carriers, do you recommend we use? How can we access those services?
3. **Each year, convene a small internal team to discuss the services available from your insurance providers and your use and experience with those services.** Ask:
   - What services—provided by our insurance broker/agent and our carriers—did we use this year and how helpful or valuable were those services?
   - What available services did we forego, and why?
   - What changes in approach should we consider to increase our use of the services available from our insurance providers?
   - What questions do we have about our broker's services and the services provided by our carriers?

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> "The mission of your nonprofit is too important to treat any advisory relationship as transactional."

Tips from Some of the Best

When I asked colleagues from my brain trust of experienced, successful insurance professionals "what's the one thing you want every nonprofit client to know—or do—to maximize and leverage the value their insurance advisor brings?" they responded this way:

Keith Mulvihill, Vice President of Lockton Companies, shared, "The two biggest factors in maximizing the value of your insurance broker relationship are working with a broker who specializes in nonprofit organizations and maintaining regular dialogue about evolving risks. A specialist broker provides valuable insights into how similar organizations are addressing risks, while ongoing communication helps you stay ahead of emerging challenges in today's fast-changing political and regulatory landscape, enabling you to develop proactive contingency plans."

Lauren Erickson from Relation told me, "Find a firm that understands your vertical within the nonprofit sector—being with a broker with general nonprofit expertise is not enough. It might be a very small firm who is the right fit, or a large, national broker. Ask your peers who they work with and if they like them. Most of our referrals come from nonprofit banks and law firms. They have seen firsthand how we work, and our reputation is on the line if we don't deliver, so keeping the client experience high is extremely important to us."

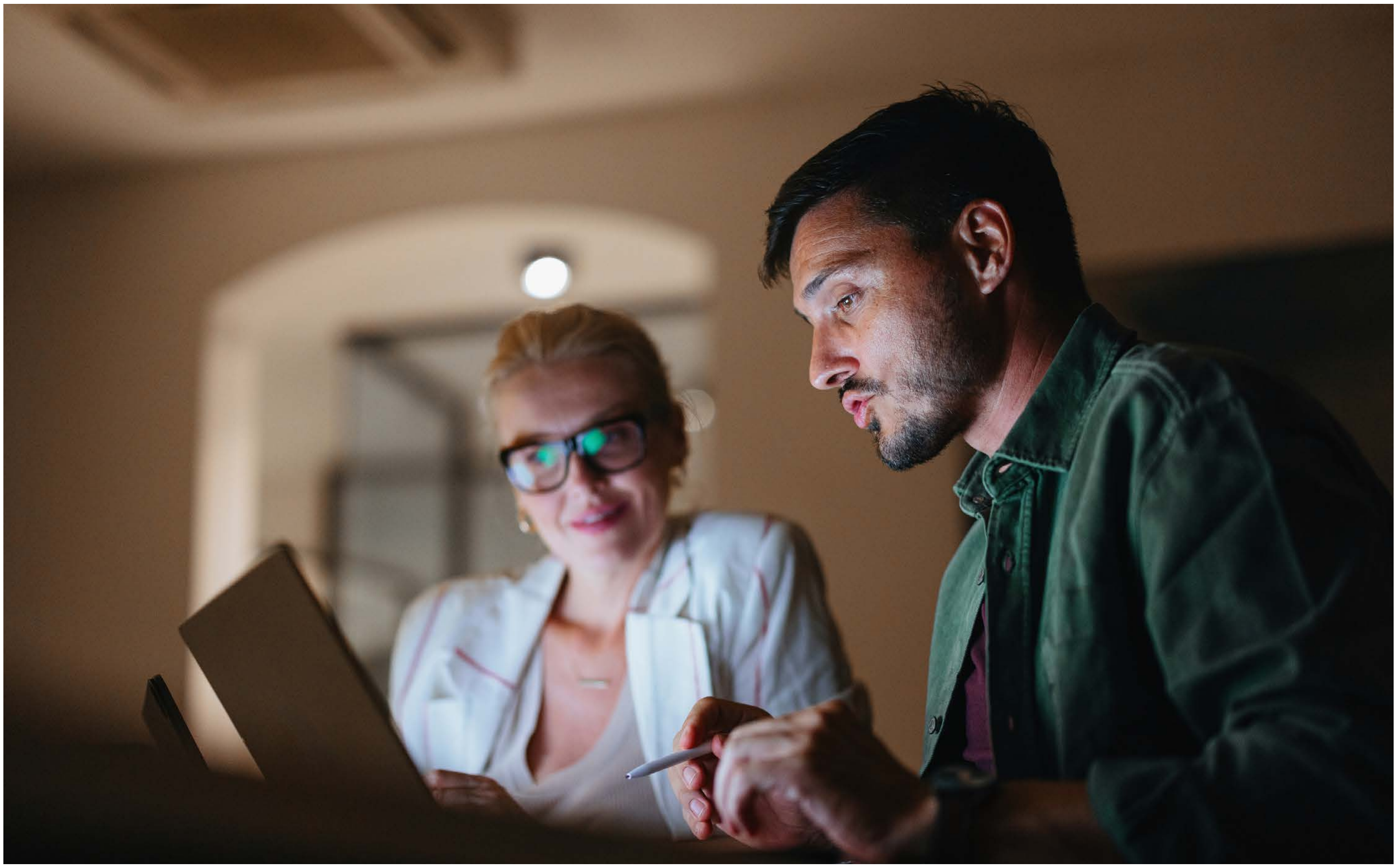
Scott Konrad from HUB explained: "As NRMC teaches its constituents so well, risk management is more than just buying insurance. When we engage with partners that understand the total cost of risk and appreciate the impact that risk avoidance and reduction, contractual risk management, judicious risk retention, and vigorous claim management can make, we're able to position them more favorably in the marketplace."

Lead with Honesty and Mutual Respect

Our experts agree with us that finding the right insurance advisor and developing a successful professional relationship requires honesty, mutual respect, communication, and a commitment to nurture and maintain a strong, flexible connection. Navigating this experience is "work" and requires the same attentiveness and follow through our personal relationships need.

The mission of your nonprofit is too important to treat any advisory relationship as transactional. When you make that mistake, you miss out on the depth of experience and array of resources your professional advisors are willing and eager to provide. Insurance is rarely, if ever, inexpensive, and the purchase of commercial insurance to properly finance risks at a nonprofit takes attention to detail and time. If you're generally happy with your relationship but worry that you may be missing out on some services and support, we hope this article offers the 'nudge' you need to invest more deeply in the relationship with your advisor. And if your nonprofit is not receiving the benefit of sage, responsive advice that meets your needs, we hope this article helps you reach a decision about whether it is time to find a new trusted partner for the important role of insurance intermediary.

Melanie Lockwood Herman is Executive Director of the Nonprofit Risk Management Center, where she enjoys working collaboratively with leaders from the nonprofit and insurance sectors. She welcomes your questions about any of the topics covered in this article and invites your insights on working effectively with an insurance professional. Melanie can be reached at Melanie@nonprofitrisk.org or 703-777-3504.



How to Navigate Insurance Needs in Vendor Relationships

By Rachel Sams

Imagine that at your organization's next event, a guest trips over a cord for the audiovisual equipment, falls, and sustains a serious injury. The guest makes a claim for damages.

Who would be liable for any damages awarded? Your nonprofit? The event venue? The audiovisual company?

Some leaders believe if their nonprofit contracts with an event vendor, they don't need to worry about risk and insurance. But, while having a written contract with an event vendor is an important step in protecting your nonprofit from claims that could be damaging, it's not the only step.

The example above illustrates the importance of considering insurance and liability issues in your nonprofit's relationships with vendors. Of course, your nonprofit should strive to take reasonable measures to assess and mitigate operational hazards, including at your events. But when you work with third parties, some risks are not within your control. It's important to work with vendors to mitigate those risks for everyone involved.

Risk management includes ensuring your vendors have proper protection for risks that may arise in their work with your nonprofit. That will help you avoid the costly consequences of a claim and focus on your mission. In this article, we'll share how to assess and mitigate the risks of services third parties provide to your nonprofit.

Make Your Vendor Relationships Official

Nonprofits sometimes need to hire external vendors to access expertise their team doesn't possess. Many nonprofit teams don't have experience in audiovisual technology, catering, legal services, floral design, payroll management, accounting, landscaping, or a host of other areas.

Vendor relationships can bring your nonprofit lots of benefits. Contracting with a top-notch event vendor can cement your organization's reputation for having quality events that meet community needs. Hiring a great IT contractor helps ensure your employees can perform their work smoothly and securely.

Great vendor relationships start

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“We encourage nonprofit organizations to require the use of written contracts that are reviewed and executed per a clear process.”

with a strong position on contracting. We encourage nonprofit organizations to require the use of written contracts that are reviewed and executed per a clear process. A clearly-written contract is a powerful risk management tool, delineating the roles and responsibilities of the parties. The process of drafting and negotiating the contract often reveals concerns and expectations that may not be explicit or clear during planning discussions.

Many nonprofits are attentive to this area. In 2023, NRMC surveyed readers of our Risk eNews newsletter about their contracting experiences. Among the 46 respondents, nonprofit sizes represented ranged from less than $10 million in annual revenue to more than $100 million. 64% of respondents were from nonprofits with annual revenues under $50 million, while 36% of respondents were from large organizations, with annual revenues above $50 million.

Most respondents, 66 percent, had no in-house attorney to review contracts. Just under two-thirds indicated they had a contracting policy.

The most common element of those written policies or procedures is language clarifying who is authorized to execute contracts. Contracting policies also frequently designate contract review by a non-attorney staff member and specify the level of review based on the contract size or scope. Only 22% of organizations with a contracting procedure required that all contract signers participate in contract process training.

About 17 percent of respondents reviewed and revisited standard contract language annually, 52 percent reviewed it periodically, 19 percent never reviewed it, and 12 percent reviewed it on some other schedule.

More than 80 percent of respondents didn’t use a third-party vendor for contract review and management.

If you have a contracting policy, what are the best ways to build on it? Some of

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"Potential liabilities that can arise from a vendor relationship include bodily injury, property damage, professional errors, cyberbreaches, and more."

NRMC's favorite contracting tips include:

- Never sign a contract with terms you don't understand. Ask the other party to explain anything that is unclear. Try to reach a compromise on asks that are impractical.
- Similarly, understand what you are asking of your vendors. If you don't understand a vendor's insurance requirements, ask. You should be able to confidently answer any vendor's questions about what you will require it to do.
- Make it clear to staff in your nonprofit who has the authority to sign contracts binding your nonprofit, and who does not.
- Include an 'escape hatch' in every contract. Wherever you can, build in flexibility to cancel the contract if circumstances make it impractical or unwise to proceed.
- Complete all due diligence (including reference-checking!) on new vendors before contract signing.

Insurance (and More) in Vendor Agreements

NRMC often receives questions from nonprofit organizations about contracts and insurance. Many nonprofit leaders long for blanket guidance on whether to require all vendors to carry certain types of insurance, what limits to require, and when to request indemnification. As with many things in risk management, our answer is "It depends!" Each nonprofit's situation will vary, and there may be differences among your vendor relationships as well. Good vendor management requires considering your needs in advance and creating a robust vetting process that allows both your organization and your vendors to ask questions.

Potential liabilities that can arise from a vendor relationship include bodily injury, property damage, professional errors, cyberbreaches, and more. Assess your vendor relationships and reflect on the range of risks associated with each relationship. Then, take steps to understand those risks, reduce their downside consequences, and ensure readiness if a risk materializes. If you have questions about how insurance applies to the risks raised during your review, bring your questions to your insurance advisor or consult counsel.

Here are some of our top tips for navigating insurance needs in vendor agreements.

Get indemnified. Make sure vendors will bear legal and financial responsibility for any claims or damages that arise from the work they perform for you. Include an indemnification agreement in your contracts with vendors. Indemnification is a commitment to cover the losses stemming from an individual or organization's service. Conversely, when your nonprofit is asked to indemnify another party in writing, review the request carefully, ask questions, and negotiate as needed before proceeding. As a rule of thumb, resist indemnifying a

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counterparty for anything that's not within your own direct control or resulting from your own negligence.

Establish insurance requirements. Insurance is the financial backstop that guarantees a contractor's ability to fulfill its indemnification covenant, and should be required for the full term of the contract—and in some instances such as construction, even beyond completion. For many vendors, that includes general liability coverage and workers' compensation. Depending on the nature, scope, and location of services, it may be advisable to require additional forms of insurance. If you contract with a transportation provider, for example, you want assurance that it has adequate liability coverage on the vehicles they will be using to transport your clients or staff. If you're consigning donor data to a cloud-based technology services provider, you'll want to insist on cyber insurance to cover breach response costs and liability or regulatory claims, including defense. Require in your contract that the vendor provide an acceptable certificate of insurance evidencing the coverages you require, but bear in mind that the certificate is nothing more than a high-level abstract; the fine print of the contractor's policies will govern in the event of a claim.

Request Additional Insured status. Some liability policies—for example, Commercial General Liability, Auto Liability, and some Professional Liability forms—enable the policyholder to designate contractual counterparties as Additional Insureds, giving them limited rights of protection if targeted in claims arising from the policyholder's negligence. This simple step can enable you to piggyback onto your vendor's insurance and preserve your own loss experience. Note, however, that the vendor's insurance will only apply when your organization, as an innocent party, is brought into a claim arising from the contractor's negligence. It won't protect you against your own comparative

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How to Navigate Insurance Needs in Vendor Relationships
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negligence.

Set limits. The amount of insurance you'll want from vendors will vary according to the type of work being performed, the potential consequences of an adverse event, and the location, recognizing that some jurisdictions are more litigious and generous than others. A common guideline is to require a minimum general liability policy limit of $1 million per occurrence, $2 million in total, but your nonprofit's needs may differ significantly. In instances with catastrophic loss potential such as vehicular use, habitational services, and direct interaction with vulnerable persons, Umbrella/Excess Liability insurance may be advisable as a safety net of additional protection.

Obtain a waiver of subrogation. This provision prevents a vendor and/or its insurer(s) from suing your organization to recover claims payouts they make because of the contracted work.

It's a game of "Let's Make a Deal." Lawyers and insurance advisors may draft the ideal indemnification and insurance specifications but, as the Rolling Stones' popular song says, "You Can't Always Get What You Want." "In our experience, the sticking points usually involve liability limits," notes Scott Konrad, North American Nonprofit practice leader for global broker HUB International. "We take a pragmatic, real-world view of risk but sometimes our clients' contractors don't have the robust liability limits we suggest," Konrad notes. In such instances, you may need to compromise on your insurance request or even consider other service providers.

Establish a point person(s) to handle contracts. Most nonprofits do not have a contracts or even legal department, although a growing number have at least one lawyer on staff. Contracting in nonprofits is sometimes coordinated by the finance department. Remember that it's important to be clear about who initiates contracts, reviews contracts, and tracks contract execution. And if these important roles have been assigned to an individual, ensure that a back-up has been trained and can step in as needed.

Limit the number of vendors you work with. The more vendor relationships you form, the more potential third-party risks you introduce. With a carefully curated vendor pool, you'll have fewer contracts and compliance requirements to manage—and you can spend more time building valuable relationships.

Consider using RFPs (requests for proposals) to solicit vendors. When they read the detailed requirements of your RFPs, vendors that can't meet those requirements will likely self-select out of the process. While many nonprofits have adopted a practice of requiring bids and RFPs for contracts over a certain amount, if you're considering doing so keep in mind that this practice can also lead to staff consistently hiring vendors at amounts just under the threshold to avoid triggering the process. Another approach is to use RFPs selectively, with contract amount as one of several possible triggers.

A strong vendor agreement requires thought, effort and negotiation up front. But if you and your vendor put in that work in good faith, it can yield a relationship that anticipates difficulties, builds in needed flexibility, and ensures a shared understanding of key issues and concerns. Those elements are sound risk management and will benefit all parties for years to come.

> "Remember that it's important to be clear about who initiates contracts, reviews contracts, and tracks contract execution."

Rachel Sams is Lead Consultant and Editor at the Nonprofit Risk Management Center. Reach her with thoughts and questions about vendor relationships and insurance at rachel@nonprofitrisk.org or (505) 456-4045.

RESOURCES:

Indemnification Agreements with Third Party Vendors or Nonprofit Program Funders - Nonprofits Insurance Alliance Group

Insurance Myths & Facts for Nonprofits – Nonprofit Risk Management Center

Contemplating Coverage: Insurance for Nonprofits – Nonprofit Risk Management Center

Glossary of Risk Management and Insurance Terms – Nonprofit Risk Management Center

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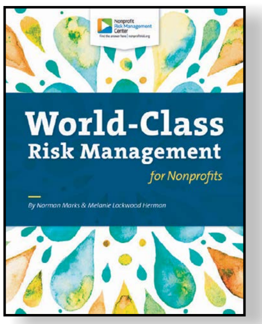
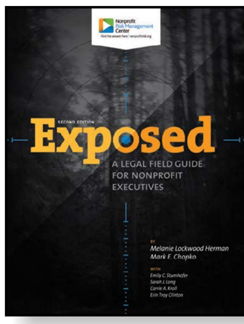
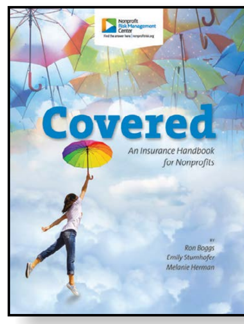
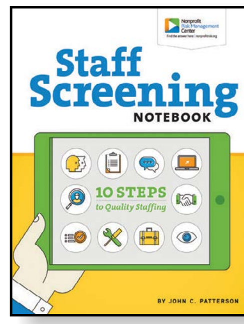
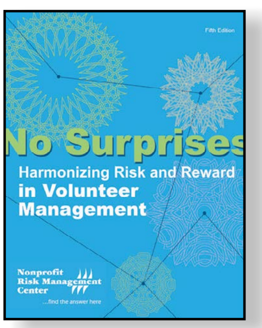
Your risk management reading list starts at nonprofitrisk.org/products

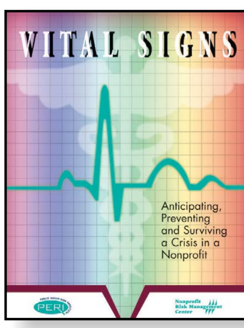


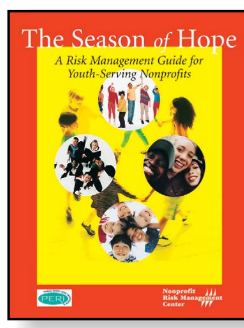


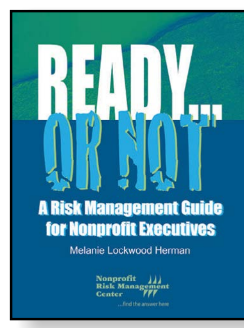












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INSIDE THIS ISSUE

NEW AFFILIATE MEMBERS

Learn more about NRMC's Affiliate Member program at nonprofitrisk.org/affiliate-membership. NRMC would like to welcome our new Affiliate Members.

A Kid Again Inc.

Crescent Cares

Friends of the Bay

LifeStream, Inc.

Michigan Nonprofit Association

NC Rural Center