



GUEST ESSAYS

How To Maximize Your Insurance Broker Relationship

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a/e ProNet's [Practice Note Volume 1, Issue 1](#), addressed the issue of selecting a broker for your firm's professional liability program. Others have dealt with selecting your insurer. These are important decisions for those responsible for the financial well-being of every engineering practice. The last few years have been particularly tumultuous due to a number of factors, not the least of which has been the prevailing "hard market" conditions in the insurance industry in general. The insurance market for engineer's professional liability coverage has seen both the emergence of new facilities, which are providing new capacity and competition, and the loss of a handful of insurers who have withdrawn from the market for strategic or financial reasons. This article will discuss ways to maximize your professional liability broker relationship to protect your firm from disruptions, including unexpected premium spikes, unexpected carrier switching, and disappointments with claim handling or payments.

Your broker should be a bellwether of trends and events in the marketplace, and those that could affect your professional liability program. Have there been announcements of financial concerns or rating-service downgrades of your insurer? Have there been announcements of management changes, withdrawal from specific classes of business, or mergers that may affect your policy renewal? What has the broker experienced recently with respect to renewing other engineers' programs and with respect to rate changes? Have you experienced claims that may change your insurer's appetite to offer you continuing coverage at acceptable rates? Your broker should prepare you for the expected effect any of these conditions could have on your firm.

Your broker, if well selected, represents many engineering firms in your community, ranging from single practitioners to large multi-disciplinary firms. Your broker, in all likelihood, cares very much about your account and values your business. Your broker wants to be seen as a valued member of your risk management team and is familiar with various insurers' underwriting requirements and rating approaches on a wide range of practices.

To best take advantage of this experience you should use the renewal application process to tell your firm's story. Your broker can assist you in properly profiling your firm and show you how the application is used for "rating" purposes. You can also supplement the application with additional information you want the insurer to know about your firm, such as your risk management procedures for projects (i.e., use of limitation of liability or waivers of consequential damage provisions) and why your firm is a better-than-average risk. Larger engineering firms should also meet with the underwriters and managers from the insurer, the claim consultants, and even the defense counsel to be used in the event of "claims" or "circumstances" under the policy.

Your broker should also be able to adjust the "timing" of your renewal program to coincide with the following: 1) your preference and availability to invest yourself in the process, 2) the availability of the information needed to complete your application (i.e., year-end financials), 3) your cash-flow realities, and 4) the other coverage maintained by your firm. You may have coverage renewals spread throughout the year, and some may be at inopportune times, such as during the summer doldrums or the holidays when many people are on vacation. But don't forget-you are the client!

You should, likewise, share with your broker changes in your practice that may affect your professional liability program. This includes the opening of branch offices or international locations, pursuing new types



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of projects or clients, considering new project delivery methods, and contemplating partnership changes, mergers, acquisitions, or the discontinuation of operations.

Additionally, your broker may be able to make introductions to claims consultants and defense counsel in your new territory and provide you with claim statistics and trends on specific project types. This can help you decide whether to pursue new markets. A good broker can also provide coverage implications of alternative methods of project delivery (design-build, joint ventures, strategic alliances, and associations) and inform your management team and other advisors about "retroactive coverage" or the need for "tail" coverage due to the "claims-made" nature of professional liability coverage.

Your broker can play a valuable role in helping your practice comply with the insurance provisions of RFPs and proposed projects. Often, the insurance provisions have been developed by the project owner's law firm or risk management department. These provisions may have origins in the construction world and would be inappropriate for engineers providing a professional service. This is especially true for the smaller practices that serve as sub-consultants to the prime design professional. Complying with these provisions can be a multi-year financial burden for the engineering practice or could represent areas of uninsured exposure.

Brokers are also familiar with the industry standard contracts for professional services. They should be able to review your firm's standard service contracts, letter agreements and proposals for insurability, and best practices in conjunction with your management team, the insurers' risk management consultants, and legal counsel. Brokers can also review owner-initiated contracts with a particular emphasis on "hold harmless" and indemnification provisions, which can be broader than available coverage under professional liability insurance policies. Once these issues are identified, you should be able to negotiate balanced language so you achieve insurability and your clients receive the protection they desire.

Brokers also can be an invaluable source of information and published material on issues you encounter in delivering your services. They can develop "in-house" seminars on issues your firm encounters on projects and direct you to no-cost risk management courses that your staff can use to reduce your exposure to claims. Many of these programs are approved by the state agencies that regulate the profession and qualify for continuing education credit.

Your broker may also be able to provide other types of insurance needed to operate your practice. Many professional liability insurers have taken a holistic approach to serving the needs of engineers in private practice and have developed enhanced coverage specific to those needs. These coverages include package policies for property insurance and general liability, umbrella liability, workers' compensation, automobile, employment practices, directors and officers liability, and fiduciary liability. The opportunity to secure the combination of these coverages from the specialty insurers who have made a commitment to serving the needs of engineering firms in private practice is a welcome development in the industry.

Brokers are also interested in making sure your account is properly insured for your activities and that your policy is properly priced by the insurers. Brokers can assist you in marketing your account to alternative insurers at intervals that satisfy your fiduciary responsibilities to your firm. They can approach all viable markets on your behalf, or you can engage other brokers to approach selected markets. Your broker should welcome the challenge of presenting you with their market results, recommendations, reasoning, and value-added services so you are satisfied your account is properly covered, priced, and professionally serviced.



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Engineering firms in private practice continue to have available to them dedicated insurance professionals who are truly committed to delivering good value and quality service because they have proven to be risk responsive, appreciative, loyal, and overall great clients to serve.

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NOTE: This article is intended for general discussion of the subject, and should not be mistaken for legal advice. Readers are cautioned to consult appropriate advisors for advice applicable to their individual circumstances.