

Twelve D&O Buying Tips

This brief from the Nonprofit Risk Management Center provides advice on purchasing D&O insurance.

- 1) Solicit competitive bids on your insurance program every three-to-five years. Competition is one way to determine whether you're paying a fair price. However, be careful that the policies offer comparable coverage - a lower premium often means less coverage or the insurer may be "low-balling" to sign you up. Future increases may be necessary.
- 2) Allow sufficient time for an underwriting review - particularly with a carrier unfamiliar with your nonprofit.
- 3) Fully complete the carrier's application and attach all requested supporting information. The information requested generally includes your bylaws, board roster, and audited financial statements or IRS Form 990. Some carriers request a copy of your employee handbook. Present your nonprofit in the best light and emphasize any activities underway to minimize losses, such as training supervisors on employment practices. Do not view the application process as a burdensome paperwork requirement, but as an opportunity to protect your nonprofit and conserve scarce resources.
- 4) Identify an insurance advisor - a broker, agent, or consultant - with experience working with nonprofits. A specialist can be invaluable as you try to understand the D&O options available to your nonprofit.
- 5) Be accurate and truthful in answering questions on the application. Misstatements on the application may void coverage if discovered upon the filing of a claim.
- 6) Respond to the underwriter's questions (usually conveyed through your insurance advisor) promptly.
- 7) Fully disclose your nonprofit's prior losses and provide details on corrective action taken to avoid future losses.
- 8) Remember that coverage and pricing terms are negotiable. If any specific terms are unacceptable, propose alternatives. For example, if coverage for employment practices is excluded, inquire about purchasing coverage via endorsement. Or, if the policy indicates that the insurer has sole authority to appoint defense counsel, inquire about the possibility of a policy form that allows the insured to participate in the selection of counsel.
- 9) Review the extent of the "prior acts" coverage provided by the policy. Seek coverage for incidents dating back to the inception of the nonprofit. (A great deal if you can get it!) If the policy contains a retroactive date make sure that the date stays the same with each renewal or new policy.
- 10) Make certain that any prior incidents that might potentially give rise to a claim are reported on your application to a new carrier as well as to your existing carrier. Claims stemming from known incidents will be excluded under your new policy.
- 11) Request information on the carrier's financial strength and status ("admitted" versus "surplus lines") and have your broker explain the ratings to you. Ask your broker about the carrier's history on handling D&O claims against nonprofits. If you're considering an alternative market (i.e. a charitable risk pool, or risk retention group), or a sponsored insurance program, make similar inquiries.
- 12) Consider the benefit of various loss control programs offered by your D&O carrier. With an estimated 60 companies now offering nonprofit D&O coverage, a growing number are providing useful loss prevention services, such as access to toll free employment practices hot lines. Risk education services can greatly enhance a D&O insurance program. Ask about available services when you request a quotation.

For more information on directors' and officers' liability insurance for nonprofit organizations, see *D&O: What You Need to Know*, published by the Nonprofit Risk Management Center.

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