



GUEST ESSAYS

You Can Survive the Hard Market Here's How

Michael Welbel

The market for professional liability insurance coverage is changing. The environment that supported repeated rate reductions no longer exists and insurers are now looking to raise rates and/or exit unprofitable lines of business.

What's on the horizon?

This past month, a/e ProNet hosted a meeting of some of the leading architects and engineers professional liability insurers together with the joint AIA/NSPE/PEPP/ACEC liability committee. Insurers in attendance included RA&MCO (Managing General agents for the Agricultural Insurance Program), Insight Insurance Services (Managing General agents for the Safeco Insurance Program, Victor O. Schinnerer (Managing General agents for the CNA program), Lexington Insurance, ECS Insurance Services, Lloyd's of London and Kemper. A brief summary of this meeting follows.

Rate Changes

Insurers have been reacting to changing market conditions well before the tragic event of September 11, 2001. However, the pressure for rate increases has amplified significantly due to the attacks on the World Trade Center. In general the insurers interviewed are reporting intent to achieve a 5%-15% rate increase on an overall book of business. Rate changes will depend primarily on firm size and areas of practice. For example, firms that have a high amount of condominium work will likely see an increase based on this area of practice. Structural and civil engineering firms are also being reviewed for possible rate adjustments.

Multiple Year Arrangements

The best advice seems to be that if you can secure a multiple year arrangement-take it. However, based upon insurer interviews it appears that these deals will be harder to come by through the fourth quarter of 2001 and probably through 2002. We anticipate that two and three year contracts will continue to be available for small firms. Mid-sized and large firms will find it more difficult to get commitments longer than one year.

Project Coverage

Project coverage will be more difficult to come by. Insurers are being more selective in the types of projects that they are willing to insure on this basis. We foresee rate increases in this area coupled with reduction in available Liability limits and tail durations. We are hearing rumors of certain insurers pulling out of the project policy market entirely.



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London Market

London underwriters seem to be reacting quicker to market changes than the domestic players. London brokers are reporting that rate increases are the norm. We also are seeing reduced capacity and therefore it might be more difficult to secure higher limits in excess of \$10,000,000.

What can you do to insulate yourself from rate increases?

Put time on your side.

No one likes working on insurance applications but remember that time can be your biggest ally. Getting your renewal information to your broker early will allow time to evaluate both your current and alternative providers. The goal is to secure the most comprehensive coverage at the best possible price. Since some insurers will be withdrawing from the market, it might take more time to obtain quotes. Greater scrutiny of your application will be necessary and more time will be needed to negotiate with underwriters. If you wait until the last minute to get your renewal information you might find yourself accepting less than the best possible situation.

Prepare your renewal submission with care

An insurer is attempting to estimate the extent of risk they will be assuming and the premium you pay is a reflection of an underwriter's interpretation of that risk. In most cases, a certain amount of discretion is accorded the underwriter who ultimately makes critical decisions regarding your insurability and the amount of your premium. Do your best to provide accurate information regarding your firm, your needs and your potential liabilities.

It's not only what you say-it's how you say it

Underwriters are human and they often react positively or negatively to your submission. A neat and well-organized submission sends a positive message to the underwriter. As much as they might try not to, an underwriter might respond negatively to a submission that is hard to read or difficult to understand. Make sure your submission conveys a positive image of you, your firm and the service you provide to your clients.

Make it easy on the underwriter

Your submission should be as complete as possible. A submission that requires clarification or additional information will slow the application or renewal process. Our experience shows that when underwriters cannot fully evaluate risk, they are likely to charge more as a hedge against errors in judgment. Be certain to include resumes, project lists or your Form 254 if you have one.

To insure your application portrays you in the best possible light, consider preparing a draft response for your broker's review. They will identify items that may be subject to misinterpretation and help you restate them in a way that avoids ambiguity.



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Prepare your renewal submission as if it were a response to a Request For Proposal

There is nothing wrong with wanting to "sell" yourself to your insurer. Remember that pricing decisions are typically based on relative factors and you will be judged against your peers. Just like competition for a project it makes sense to look better than your peer group.

Provide complete and accurate claims information.

When completing claim forms, be sure they are complete and accurately convey your side of the story. This will reduce misunderstandings and minimize the number of queries you incur. Information that is sketchy might lead an underwriter to conclude that you are not concerned about claim matters or not willing to share relevant information that might be helpful to your case.

Create reporting systems that accurately record your areas of practice

Some areas of practice are supportive of a higher premium structure than others. You might be short changing yourself by failing to identify those areas of low exposure. It is best if you have a system that records what kinds of services you are providing. Your system should also report direct reimbursables, as you want to accurately deduct these expenses from your reported revenues.

Think long term

Insurers need to make a profit in order to stay in business and of course they like accounts that are likely to be profitable. Avoid insurance buying practices that are likely to cause you to be overusing your insurance.

Establish a relationship of mutual Benefit with your insurer

Get to know your underwriter and help them better understand your practice and the way they you do business. Find out what the underwriter likes and dislikes about your application and make changes that seem appropriate. Your insurer and you have similar goals and that is to minimize losses. It is also a good idea to get to know your claims person before a claim arises. Claims often involve difficult decisions and better decisions are made if you have a working relationship wit your claim examiner.

Avoid the lure of the lowest price

Not all insurers will be committed to you in the long term. As markets firm up it is not unusual for capacity to diminish. When that happens insurer need to ration capacity and current insureds have preference. The last thing you want is to be forced to change insurer in a hard market. Ask your broker about the track record of the company they are proposing. Seek their opinion as to the likely longevity of the insurer. Sometimes a low price at inception turns out to be more costly over the long term.

Conclusion

It is increasingly important to carefully prepare renewal submissions and get them out early. If an insurer is going to increase your rate, or change your coverage in some fashion you will want to know about it as soon as possible. Our experience thus far is that rate changes have been manageable. By taking a few



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reasonable measures, you can work with your broker to minimize, if not avoid, any negative impact rising rates might have on your firm.

Michael Welbel is the founder and President of M G Welbel and Associates, Inc. He has worked with architects and engineers since 1981. During that time he has been responsible for national professional liability a/e programs. Welbel has presented to AIA, The American Bar Association, Chicago Bar Association, Professional Liability Underwriting Society, CPCU Society, NSPE, PEPP and other professional societies. He has authored numerous articles in connection with professional liability insurance including a chapter in the Design Professionals Handbook of Business and Law (John Wiley & Sons, 1991.) Welbel is a member of the Illinois Bar and currently spends most of his time helping architectural and engineering firms avoid claims and manage their insurance costs. M G Welbel and Associates, Inc. are members of **a/e ProNet**, a National Association of Professional Liability Insurance specialists serving the design professions.

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.